

EXHIBIT E

Di Donato v. Babich, et al., No. 16-cv-00302-NVW (D. Ariz.)

Plaintiff Class's Designations
Testifying Witness: Kizior, Eric
Date of Testimony: June 7, 2019 (*Di Donato* Matter)

Plaintiff Class's Designations	Defendants' Objections ¹	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
10:15-10:24				
13:11-13:16				
20:11-23:2				
23:25-25:5				
25:16-26:15				
154:9-154:24	601, 602: Foundation: witness testified he is not familiar with charges and indicates he is making assumptions. 401-403: testimony is not relevant since Insys is no longer a party and it is prejudicial to Defendants.	Insys' guilty plea to the Criminal Enterprise that was an undisclosed key factor in the FY14 Subsys sales and revenue growth is relevant to establishing that Defendants violated Section 10(b); Witness is testifying on behalf of Insys about topics underlying plea; Defendants have not articulated the prejudice		
166:9-166:21	601, 602: Foundation: witness testified he is not familiar with charges and indicated previously he is making assumptions. Hearsay: witness bases his testimony on news reports he read. 401-403: testimony is not relevant since Insys is no longer a party and it is prejudicial to Defendants.	Foundation established through prior and subsequent testimony; News reports not being referenced for the truth of the matters referenced therein so no hearsay; otherwise, same response as to Defendants' objections to 154:9-154:24		
168:1-168:13	601, 602: Foundation: witness testified he is not familiar with charges and indicated previously he is making assumptions.	Foundation established through prior and subsequent testimony; New reports not being referenced for the truth of the matters referenced therein so no hearsay;		

¹ With respect to every witness listed in this chart, to the extent Plaintiffs have also identified any of their affirmative designations as counter designations, Defendants' objections to the affirmative designations apply equally to such counter-designations. Defendants further rely on their objections concerning issues in the criminal Boston trial as more fully set forth in their forthcoming motions *in limine*.

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Plaintiff Class's Designations	Defendants' Objections ¹	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
	Hearsay: witness bases his testimony on news reports he read. 401-403: testimony is not relevant since Insys is no longer a party and it is prejudicial to Defendants.	otherwise, same response as to Defendants' objections to 154:9-154:24		
168:18-171:7	601, 602: Foundation: witness testified he is not familiar with document and indicated previously he is making assumptions. 401-403: testimony is not relevant since Insys is no longer a party and it is prejudicial to Defendants.	Same response as to Defendants' objections to 154:9-154:24		
172:5-172:9	601, 602: Foundation: witness testified he is not familiar with document and indicated previously he is making assumptions. 801-802: calls for hearsay 401-403: testimony is not relevant since Insys is no longer a party and it is prejudicial to Defendants	Foundation established through prior and subsequent testimony; Question does not ask for the truth of the facts asserted in the Insys plea but whether Insys had admitted these facts; same response as to Defendants' objections to 154:9-154:24		
173:3-175:1	601, 602: Foundation: witness testified he is not familiar with document and indicated previously he is making assumptions. 801-802: Calls for hearsay 401-403: testimony is not relevant since Insys is no longer a party and it is prejudicial to Defendants	Foundation established through prior and subsequent testimony; Question does not ask for the truth of the facts asserted in the Insys plea but whether Insys had admitted these facts; otherwise, same response as to Defendants' objections to 154:9-154:24		
183:16-184:1				
184:16-185:3				

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Defendants' Designations
Testifying Witness: Kizior, Eric
Date of Testimony: June 7, 2019 (*Di Donato* Matter)

Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
10:1-5				
10:15-24	106: Incomplete (designate 11:14-15 per FRE 106)	11:14-15		
57:22-58:9	106: Incomplete (designate 58:12-59:7, 60:8-10, and 60:25-61:6 per FRE 106)	58:12-59:7 60:8-10 60:25-61:6		

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Plaintiff Class's Designations
Testifying Witness: Sharpsten, Kevin
Date of Testimony: June 12, 2019 (*Di Donato* Matter)

Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations²	Plaintiff Class's Objections to Defendants' Counter Designations
8:1-8:3				
8:17-8:19				
8:23-9:1				
21:20-22:6				
22:21-23:7				
23:13-23:22				
23:23-23:25				
24:1-24:22				
28:15-29:13				
29:18-29:21				
30:24-31:14				
32:8-32:10				
32:11-32:23				
32:24-33:5				
33:6-33:12				
35:15-36:12				
38:22-39:2				
42:7-44:4				
45:9-45:15				
46:18-48:24				
51:13-53:4				
53:7-53:13				
54:7-55:7				
69:15-70:3				

² These designations have been identified as for "completeness" pursuant to Fed. R. Evid. 106.

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ²	Plaintiff Class's Objections to Defendants' Counter Designations
70:18-70:24				
70:25-71:7				
99:5-99:22				
99:23-100:6				
100:7-100:25				
185:22-185:23				

Defendants' Designations
Testifying Witness: Sharpsten, Kevin
Date of Testimony: June 12, 2019 (*Di Donato* Matter)

Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
6:5-8	401, 402: Irrelevant and confusing interrupted opening of the record			
8:17-19				
11:23-12:18	401, 402: Irrelevant testimony concerning witness's current employment at non-party entity			
12:19-25	401, 402: Irrelevant testimony concerning witness's current employment at non-party entity			
13:4-23	401, 402: Irrelevant testimony concerning witness's education and employment history at non-party entities			
13:24-14:6	401, 402: Irrelevant testimony concerning witness's education and employment history at non-party entities			
14:21-18:5	401, 402: Irrelevant testimony concerning witness's education and employment history at non-party entities			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
20:2-17	401, 402: Irrelevant testimony concerning witness's education and employment history at non-party entities			
20:23-21:1				
21:20-23				
21:24-22:6				
22:21-23:7				
23:13-16				
23:17-25				
24:1-22				
28:8-11				
28:15-23				
30:3-8	601, 602: No personal knowledge/speculation as to oncology plan & Pipko's role			
30:19-31:8	601, 602: No personal knowledge/speculation as to data sources (31:2-6)			
31:9-14				
32:11-23				
32:24-33:5				
33:6-12				
34:4-25	801, 802: Hearsay as to actions that the sales force could take (34:4-22) 601, 602: Speculation as to actions that the sales force could take (34:4-22)			
35:14	401, 402: No substantive testimony			
35:15-36:12	601, 602: Speculation as to data sources and work flow (35:25-36:7)			
36:13-37:6	601, 602: No personal knowledge of TIRF prescribing (36:13-22)			
38:3-11				

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
38:22-39:2				
40:15-19	Foundation: Not clear from designated testimony the type of report being discussed			
40:20-22	Foundation: Not clear from designated testimony the type of report being discussed			
41:3-10	601, 602: Speculation concerning information reflected in reports 401, 402, 403: Misleading and confusing based upon speculation and lack of specificity Foundation: Not clear from designated testimony the type of report being discussed			
42:11-22	MIL #3 ³			
43:16-23	MIL #3			
45:9-15				
46:18-47:14	601, 602: Speculation and lack of personal knowledge as to oncology territories (46:22-47:14)			
47:23-48:18				
48:21-49:5				
50:13-21	106: Incomplete (designate 50:22-51:3 per FRE 106) 601, 602: Speculation as to data sources (50:18-19)	50:22-51:3		
51:10-23				
51:24-52:9				
52:10-53:1				
54:7-55:2				
57:23-58:6	MIL #3			

³ “**MIL #3**” refers to the Plaintiff Class’s forthcoming motion *in limine* to preclude the introduction of evidence or argument concerning issues upon which Defendant Kapoor obstructed discovery in this Action by invoking his Fifth Amendment right against self-incrimination.

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
59:4-18	601, 602: Speculation as to data reflected on exhibit			
59:19-60:1				
60:23-61:15				
61:20-62:10	401, 402, 403: Irrelevant as there is nothing in the record to indicate that the information in Ex. 47 was provided to Defendants MIL #3			
64:12-17	401, 402, 403: Irrelevant as there is nothing in the record to indicate that the information in Ex. 47 was provided to Defendants			
65:2-20	401, 402, 403: Irrelevant as there is nothing in the record to indicate that the information in Ex. 47 was provided to Defendants			
67:12-17	106: Incomplete (designate 66:21-67:11) 401, 402, 403: Irrelevant as there is nothing in the record to indicate that the information in Ex. 47 was provided to Defendants	66:21-67:11		
69:15-70:24	601, 602: Speculation as to data sources and reliability (70:4-24)			
72:10-73:14				
73:15-75:4	401, 402, 403: Witness's view as to when he would investigate data discrepancies not relevant 601, 602: No personal knowledge/speculation as to why there are differences in the data			
75:5-24	401, 402, 403: Witness's view as to when he would investigate data discrepancies not relevant 601, 602: No personal knowledge/speculation as to why there are differences in the data			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
75:25-76:6	401, 402, 403: Witness's view as to when he would investigate data discrepancies not relevant 601, 602: Personal knowledge/speculation as to why there are differences in the data			
76:7-19	401, 402, 403: Witness's view as to when he would investigate data discrepancies not relevant 601, 602: Personal knowledge/speculation as to why there are differences in the data			
97:2-98:15	106: Incomplete (98:16-99:9) per FRE 106 401, 402, 403: Question stricken/withdrawn (97:2-8) 601, 602: Speculation as to data sources and intent (97:9-98:15)	98:16-99:9		
99:23-100:19				
149:7-22	401, 402, 403: Not relevant to claims/defenses as document did not go to Defendants 701: Lay opinion expressed Foundation No foundation established for opinion expressed			
149:24-150:4	401, 402, 403: Not relevant to claims/defenses as document did not go to Defendants 801, 802: Hearsay as to what witness may or may not have been told (149:24:150:-4) Foundation: No foundation for belief expressed			
150:5-15	801, 802: Hearsay as to what witness may or may not have been told (150:13-15) 401, 402, 403: Prejudicial, irrelevant and confusing opinion expressed with no foundation			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	601, 602: No personal knowledge/speculation as to “oncology program” and motivations of defendants (150:5-15) 701: (150:5-15) Foundation: No foundation for opinion expressed; Timeframe MIL #1⁴: Efforts not in place by FY14 (150:5-15) MIL #3			
151:6-12	801, 802: Hearsay as to what witness may or may not have been told Foundation: No foundation established for knowledge of company goals; Timeframe MIL #1: Efforts not in place by FY14 MIL #3			
151:15-24	801, 802: Hearsay as to what witness may or may not have heard Foundation as to timeframe MIL #1: Efforts not in place by FY14 MIL #3			
151:25-152:8	401, 402, 403: Lawyer testimony/characterization of facts with no substantive testimony by witness MIL #3			
152:10	401, 402, 403: Non-substantive request to review a document MIL #3			
152:12-13	MIL #3			
152:19-22	MIL #3			
152:23-24	MIL #3			

⁴ The Plaintiff Class seeks an order precluding the introduction of evidence and testimony regarding putative or aspirational oncological efforts that were not in place in FY14, and Subsys sales and revenue generated by the “oncology HCP” specialty (which was artificially inflated by the Factor) in FY15 under Fed. R. Evid. 401, 402, and 403. Evidence subject to this MIL is identified here by the inclusion of “MIL #1” in the Plaintiff Class’s Objections.

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
153:2-14	401, 402, 403: Vague reference to millions of dollars of product sold to oncologists confusing and misleading Foundation: Lawyer testimony concerning and mischaracterizing document and suggesting answer to witness MIL #3			
153:16-154:2	106: Incomplete (154:4-23) per FRE 106 401, 402, 403: Lay opinion expressed by non-party as to accuracy of portion of statement in 2014 Form 10-K without regard to the claimed sales growth at issue; Irrelevant because witness testified that this report has nothing to do with the statements at issue, <i>see</i> 166:23-167:21 701: Lay opinion expressed as to accuracy of portion of statement in 2014 Form 10-K Foundation: No foundation for opinion witness is asked to express as to truth or falsity of statement based on testimony that witness's work did not bear on statements at issue MIL #3	154:4-23 166:23-167:21	601, 602- Witness testified he did not know the purpose of the information he was providing; (167:9-21) 401-403: Not relevant and testimony is waste of jury's time (167:9-21)	Counter designation is for completeness so that the jury can weigh the relevance and foundation of Defendants' designation if it is admissible and played; Defendants' objections to the Plaintiff Class's counter designation apply equally to 153:16-154:2
158:11-159:5	Foundation: No knowledge established with witness as to content of interrogatory or response 106: Incomplete (155:11-12, 158:7-10) per FRE 106 801, 802: Hearsay as to truth of interrogatory response 401, 402, 403: Lay opinion expressed by non-party as to accuracy of portion of statement in of interrogatory response that does not address sources of 2014 sales growth	155:11-12 158:7-10		

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	701: Lay opinion expressed by non-party as to accuracy of interrogatory response MIL #3			
159:6-14	Foundation: No knowledge established with witness as to content of interrogatory or response 801, 802: Hearsay as to truth of interrogatory response 401, 402, 403: Lay opinion expressed by non-party as to accuracy of portion of statement in of interrogatory response that does not address sources of 2014 sales growth 701: Lay opinion expressed by non-party as to accuracy of interrogatory response MIL #3			
164:7-12	106: Incomplete (166:23-167:21) per FRE 106 401, 402, 403: Irrelevant if reports did not go to Defendants (166:8-12); Irrelevant because witness testified that this report has nothing to do with the statements at issue, <i>see</i> 166:23-167:21	166:23-167:21	601, 602- Witness testified he did not know the purpose of the information he was providing; (167:9-21) 401-403: Not relevant and testimony is waste of jury's time (167:9-21)	Counter designation is for completeness so that the jury can weigh the relevance and foundation of Defendants' designation if it is admissible and played; Defendants' objections to the Plaintiff Class's counter designation apply equally to 164:7-12
164:13-22	106: Incomplete (166:23-167:21) per FRE 106 401, 402, 403: Irrelevant if reports did not go to Defendants (166:8-12); Irrelevant because witness testified that this report has nothing to do with the statements at issue, <i>see</i> 166:23-167:21	166:23-167:3, 167:6-11, 167:14-19	601, 602- Witness testified he did not know the purpose of the information he was providing; (167:9-21) 401-403: Not relevant and testimony is waste of jury's time (167:9-21)	Counter designation is for completeness so that the jury can weigh the relevance and foundation of Defendants' designation if it is admissible and played; Defendants' objections to the Plaintiff Class's counter designation apply equally to 164:13-22
165:17-166:1	106: Incomplete (166:23-167:21) per FRE 106 401, 402, 403: Irrelevant if reports did not go to Defendants (166:8-12); Irrelevant because witness testified that this report has	166:23-167:3, 167:6-11, 167:14-19	601, 602- Witness testified he did not know the purpose of the information he was providing; (167:9-21)	Counter designation is for completeness so that the jury can weigh the relevance and foundation of Defendants' designation if it is admissible and played; Defendants' objections to the Plaintiff

Di Donato v. Babich, et al., No. 16-cv-00302-NVW (D. Ariz.)

Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	nothing to do with the statements at issue, <i>see</i> 166:23-167:21		401-403: Not relevant and testimony is waste of jury's time (167:9-21)	Class's counter designation apply equally to 165:17-166:1
166:2-12	106: Incomplete (166:23-167:21) per FRE 106 401, 402, 403: Irrelevant if reports did not go to Defendants (166:8-12); Irrelevant witness testified that this report has nothing to do with the statements at issue, <i>see</i> 166:23-167:21 Foundation as to meaning of "management" (166:10-12)	166:23-167:3, 167:6-11, 167:14-19	601, 602: Witness testified he did not know the purpose of the information he was providing; (167:9-21) 401-403: Not relevant and testimony is waste of jury's time (167:9-21)	Counter designation is for completeness so that the jury can weigh the relevance and foundation of Defendants' designation if it is admissible and played; Defendants' objections to the Plaintiff Class's counter designation equally to 166:2-12
166:12-21	106: Incomplete (166:23-167:3, 167:6-11, 167:16:19) per FRE 106 401, 402, 403: Irrelevant if reports did not go to Defendants (166:8-12); Irrelevant witness testified that this report has nothing to do with the statements at issue, <i>see</i> 166:23-167:21 MIL #3	166:23-167:3, 167:6-11, 167:14-19	601, 602: Witness testified he did not know the purpose of the information he was providing; (167:9-21) 401-403: Not relevant and testimony is waste of jury's time (167:9-21)	Counter designation is for completeness so that the jury can weigh the relevance and foundation of Defendants' designation if it is admissible and played; Defendants' objections to the Plaintiff Class's counter designation apply equally to 166:12-21
167:23-168:1	106: Incomplete (166:23-167:3, 167:6-11, 167:16:19) per FRE 106 401, 402, 403: Irrelevant if reports did not go to Defendant (166:8-12); Irrelevant because witness testified that this report has nothing to do with the statements at issue, <i>see</i> 166:23-167:21 Foundation as to meaning of "sales information"; as to meaning of "accurate" and timeframe	166:23-167:3, 167:6-11, 167:14-19	601, 602: Witness testified he did not know the purpose of the information he was providing; (167:9-21) 401-403: Not relevant and testimony is waste of jury's time (167:9-21)	Counter designation is for completeness so that the jury can weigh the relevance and foundation of Defendants' designation if it is admissible and played; Defendants' objections to the Plaintiff Class's counter designation apply equally to 167:23-168:1
168:2-4	401, 402, 403: Irrelevant if reports did not go to Defendants; Irrelevant witness testified that this report has nothing to do with the statements at issue, <i>see</i> 166:23-167:21 MIL #1: FY15 results irrelevant			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
168:20-169:5	401, 402, 403: Irrelevant if reports did not go to Kapoor/Babich; Irrelevant because witness testified that this report has nothing to do with the statements at issue, <i>see</i> 166:23-167:21 MIL #1: FY15 results irrelevant			
169:10-13	401, 402, 403: Irrelevant if reports did not go to Kapoor/Babich; Irrelevant because witness testified that this report has nothing to do with the statements at issue, <i>see</i> 166:23-167:21 Foundation as to the meaning of "accurate" and timeframe MIL #1: FY15 results irrelevant			
169:15-171:19	401, 402, 403: Irrelevant if reports did not go to Defendants; Irrelevant because witness testified that this report has nothing to do with the statements at issue, <i>see</i> 166:23-167:21 Foundation as to the meaning of "accurate" and timeframe MIL #1: FY15 results irrelevant (169:15-170:4); Postdates Misstatements (170:5-171:19)			
171:22-173:1	401, 402, 403: Irrelevant if reports did not go to Defendants; Irrelevant because witness testified that this report has nothing to do with the statements at issue, <i>see</i> 166:23-167:21 Foundation as to the meaning of "accurate" and timeframe MIL #1: FY15 results irrelevant; Postdates Misstatements			
173:12-17	401, 402, 403: Exhibits irrelevant because they did not go to Defendants; Irrelevant as witness testified that they had nothing to do			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	with the statements at issue, <i>see</i> 166:23-167:21 Compound question Foundation Narrative: Question calls for a narrative MIL #1: FY15 results irrelevant; Postdates Misstatements			
173:22-174:2	401, 402, 403: Exhibits irrelevant because they did not go to Defendants; Irrelevant as witness testified that they had nothing to do with the statements at issue, <i>see</i> 166:23-167:21 Compound question Foundation Narrative: Question calls for a narrative MIL #1: FY15 results irrelevant; Postdates Misstatements			
174:4-175:6	401, 402, 403: Exhibits irrelevant because they did not go to Defendants; Irrelevant as witness testified that they had nothing to do with the statements at issue, <i>see</i> 166:23-167:21 MIL #1: FY15 results irrelevant; Postdates Misstatements			
185:22-186:9				

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Plaintiff Class's Designations
Testifying Witness: Pipko, Brian
Date of Testimony: June 14, 2019 (*Di Donato* Matter)

Plaintiff Class's Affirmative Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ⁵	Plaintiff Class's Objections to Defendants' Counter Designations
8:16-9:7				
10:19-10:25				
11:1-11:3				
12:1-14:10				
14:17-15:09				
15:21-15:24				
18:16-19:4				
19:17-20:3				
21:10-21:15				
21:23-22:5				
23:6-23:14				
28:5-31:2				
31:3-31:5				
33:5-33:12				
33:20-33:22				
57:17-57:24				
61:3-61:10				
62:2-63:4				
63:22-64:9				
64:20-65:1				
67:16-68:12				
73:20-74:9				
74:16-75:2				
75:5-77:5				
77:7-78:12				
78:15-78:17				
78:21-79:14				
79:16-80:6				

⁵ These designations have been identified as for "completeness" pursuant to Fed. R. Evid. 106.

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Plaintiff Class's Affirmative Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations⁵	Plaintiff Class's Objections to Defendants' Counter Designations
85:12-87:7				
87:14-88:12				
88:23-89:10				
89:18-90:12				
94:1-94:24				
94:25-95:1				
208:1-209:13				
209:16-210:16				
211:16-211:23				
215:1-217:19				
234:1-236:8				
236:11-237:14				
237:19-239:10				
239:20-239:21				
240:3-240:22				
241:18-243:13				
243:14-243:16				
243:25-245:24				
251:5-251:17				
252:25-253:23				
255:9-256:7				
257:3-258:9				
258:11-260:4			260:5-9	Nonresponsive to question
260:10-260:16				
261:4-263:9				
267:11-267:13				
267:20-269:23				
269:24-270:5				
271:24-272:11				
272:15-273:6				
273:8-274:6				
274:9-274:10				
274:12-274:21				

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Defendants' Designations
Testifying Witness: Pipko, Brian
Date of Testimony: June 14, 2019 (*Di Donato* Matter)

Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
8:19-22				
9:6-7				
18:16-25				
19:1-4				
19:17-22				
19:23-20:3				
20:12-24	106: Incomplete (designate 20:4-11 per FRE 106) 601, 602: Personal knowledge/speculation as witness was unsure and could not recall answer to question Nonresponsive testimony at 20:16-24 MIL #1⁶: Efforts after FY14 MIL #3	20:4-11		
21:2-6	106: Incomplete (designate 20:4-11 per FRE 106) MIL #1: Efforts after FY14	20:4-11		
21:10-22				
25:12-25	106: Incomplete (designate 23:15-24:24, 25:5-11 per FRE 106) 601, 602: Speculation as to Dan Brennan and Raimonds' thoughts & actions Nonresponsive testimony at 25:18-25:25, 26:9-13, 26:18-23 to question at 25:12-13 Narrative response at 25:18-26:23 MIL #1: Efforts after FY14	23:15-24:24, 25:5-11		

⁶ The Plaintiff Class seeks an order precluding the introduction of evidence and testimony regarding putative or aspirational oncological efforts that were not in place in FY14, and Subsys sales and revenue generated by the "oncology HCP" specialty (which was artificially inflated by the Factor) in FY15 under Fed. R. Evid. 401, 402, and 403. Evidence subject to this MIL is identified here by the inclusion of "MIL #1" in the Plaintiff Class's Objections.

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	MIL #3			
26:1-4	601,602: Speculation as to Dan Brennan and Raimonds' thoughts & actions Nonresponsive testimony at 25:18-25:25, 26:9-13, 26:18-23 to question at 25:12-13 Narrative response at 25:18-26:23 MIL #1: Efforts after FY14			
26:5-27:4	601, 602: Speculation as to what types of cancers cause more pain (26:9-13) Nonresponsive testimony at 26:9-13, 26:18-23 to question at 25:12-13 Narrative response at 25:18-26:23 MIL #1: Efforts after FY14			
30:16-31:2				
36:7-13	106: Incomplete (designate 36:14-38:10 per FRE 106)	36:14-38:10, 39:11-13, 39:21-41:10, 41:15-17, 42:2-5, 42:10-14, 43:11-48:16, 48:19-49:6, 49:20-52:17, 176:23-179:23		
38:11-39:5	106: Incomplete (designate 39:11-13, 39:21-41:10, 41:15-17, 42:2-5, 42:10-14, 43:11-48:16, 48:19-49:6, 49:20-52:17) 401,402, 403: 38:20 is not relevant as it does not contain testimony (403)	36:14-38:10, 39:11-13, 39:21-41:10, 41:15-17, 42:2-5, 42:10-14, 43:11-48:16, 48:19-49:6, 49:20-52:17; 176:23-179:23		
38:25-39:5	Subsumed within designation of 38:11-39:5	36:14-38:10, 39:11-13, 39:21-41:10, 41:15-17, 42:2-5, 42:10-14, 43:11-48:16, 48:19-49:6,		

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
		49:20-52:17; 176:23-179:23		
52:18-53:6	Foundation because "they" in the answers is not defined (52:21-23, 53:4-6) MIL #3	36:14-38:10, 39:11-13, 39:21-41:10, 41:15-17, 42:2-5, 42:10-14, 43:11-48:16, 48:19-49:6, 49:20-52:17		
55:13-15		53:9-12, 53:22-54:8		
57:17-58:6	106: Incomplete (designate 53:9-12, 53:22-54:8 per FRE 106) 601, 602: Speculation as to how oncologists treat their patients (58:1-6)			
58:7-11	106: Incomplete (designate 53:9-12, 53:22-54:8 per FRE 106)			
60:25-62:1				
62:2-17				
63:9-21				
63:22-25	MIL #3			
64:1-13	MIL #3			
64:14-65:1	MIL #3			
65:2-22	401, 402, 403: Drugs other than Subsys or future indications not relevant 801, 802: Hearsay as to Kapoor's, Van Hoff's, & Alberts' statements (65:14-19) Foundation as to "plans" and timeframe MIL #1: Efforts not implemented in FY14 MIL #3			
65:23-67:3	601, 602: Personal, knowledge/speculation as to Kapoor's thoughts and actions (66:12-67:3) 801, 802: Hearsay as to Kapoor's statements (66:13-20, 66:24-67:3)			

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	Nonresponsive testimony at 66:1-7 to question at 65:23-24) Narrative response at 65:25-67:2 MIL #3			
67:4-20	MIL #3			
68:13-17	801, 802: Hearsay as to Babich's statements (68:15-17) MIL #3			
68:18-24	MIL #3			
70:20-71:13	106: Incomplete (designate 71:1-72:22, 72:25-73:8 per FRE 106)	71:14-72:22, 72:25-73:8		
73:20-74:15	801, 802: Hearsay as to Kapoor's statements (74:10-15) MIL #3 (74:10-15)			
78:2-10				
79:18-80:6				
80:7-9				
80:25-81:14	401, 402, 403: Whether other ROO companies had putative oncology efforts not relevant to clams/defenses 601, 602: Personal knowledge/speculation as to Cephalon/Teva's efforts and difficulty of expanding oncology market (80:25-81:10) Nonresponsive testimony at 80:25-81:10 to question at 80:7-9			
81:15-16	401, 402, 403: Whether other ROO companies had putative oncology efforts not relevant to clams/defenses 601, 602: Personal knowledge/speculation as to Cephalon/Teva's efforts and difficulty of expanding oncology market (80:25-81:10)			
81:17-82:15	106: Incomplete (designate 82:16-19 and 82:22-83:7 per FRE 106) 401, 402, 403: Whether other ROO companies had putative oncology efforts and	82:16-83:7		

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	Pipko's current belief in Insys' putative efforts is not relevant 601, 602: Personal knowledge/speculation as to Cephalon/Teva's efforts and how oncologists practice medicine and treat cancer pain (81:17-82:15)			
90:22-91:18	106: Incomplete (designate 92:1-5, 92:14-23 per FRE 106) MIL #3	92:1-5		
91:19-25	106: Incomplete (designate 92:1-5, 92:14-23) per FRE 106) MIL #3	92:1-5		
92:6-13	106: Incomplete (designate 92:1-5, 92:14-23 per FRE 106) MIL #3	92:14-27		
92:24-93:24				
94:1-7	106: Incomplete (designate 129:24-133:19 per FRE 106) MIL #3	129:24-133:19		
95:3-20	106: Incomplete (designate 96:1-8, 129:24-133:19 per FRE 106) 801, 802: Hearsay as to Kapoor's statements (95:11-15) MIL #3	96:1-8, 129:24-133:19		
101:7-15	106: Incomplete (designate 104:12-24 per FRE 106)	104:12-24		
101:24-102:17	106: Incomplete (designate 102:21-23, 103:1-6, 104:6-24 per FRE 106) 801, 802: Hearsay as to Burlakoff's statements (102:13-17)	102:21-23, 103:1-6, 104:12-24		
103:19-104:5	106: Incomplete (designate 103:16-18, 104:6-24 per FRE 106) 601, 602: Personal knowledge/speculation as to the process for speaker recommendations (103:21-104:5)	103:16-18, 104:6-8, 104:12-24		

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	801, 802: Hearsay as to Hollandsworth's statements (103:25-104:5)			
109:5-110:15	106: Incomplete (designate 110:21-23 per FRE 106) 601, 602: Personal knowledge/speculation as to the supportive care book referenced in the exhibit MIL #1: Efforts not in place by FY14 (Supportive Care Book) MIL #3	110:21-23		
111:1-11	106: Incomplete (designate 110:21-23 per FRE 106) MIL #1: Efforts not in place by FY14 (Supportive Care Book) MIL #3	112:4-113:20		
111:11-112:3	106: Incomplete (designate 112:4-113:20 per FRE 106) 601, 602: Personal knowledge/speculation as to Alberts' reputation and the supportive care book (111:13-112:3) 801, 802: Hearsay as to Alberts' statements MIL #1: Efforts not in place by FY14 (Supportive Care Book) MIL #3	112:4-113:20		
113:21-115:5	106: Incomplete (designate 115:6-11, 115:22-116:18 per FRE 106) MIL #1: Efforts not in place by FY14 (Regional Dinners)	115:6-11, 115:22-116:8		
115:12-21	106: Incomplete (designate 115:6-11, 115:22-116:18 per FRE 106) 401, 402, 403: No evidence that this information was ever provided to Defendants 601, 602: No personal knowledge/speculation as to whether the Series happened before April 2015 MIL #1: Efforts not in place by FY14 (Regional Dinners)	115:6-11, 115:22-116:8		

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116:12-14	106: Incomplete (designate 116:15-17 per FRE 106)	116:15-17		
116:18-117:1	106: Incomplete (designate 116:15-17 per FRE 106) 601, 602: Personal knowledge and speculation as to whether sales contests occurred in FY14 (116:23-117:1)			
117:23-118:4	106: Incomplete (designate 118:5-8 per FRE 106)	118:5-8		
118:9-119:20	106: Incomplete (designate 119:20-120:5 per FRE 106) 601, 602: Personal knowledge and speculation as to NCCN guidelines and cancer treatments (119:12-20)	119:20-5		
120:6-20	106: Incomplete (designate 119:20-120:5, 121:13-19 per FRE 106)	119:20-5, 121:13-19		
120:21-121:12	106: Incomplete (designate 121:13-19 per FRE 106) MIL #1: Efforts not in place by FY14 (Formularies)	121:13-19		
121:20-123:5	106: Incomplete (designate 121:13-19 per FRE 106) 401, 402, 403: Being on 601, 602: Personal knowledge/speculation as to whether Insys had any formulary approvals in FY14 Nonresponsive testimony at 122:13-16 to question at 122:4-5 MIL #1: Efforts not in place by FY14 (Formularies)	121:13-19		
123:6-25	106: Incomplete (designate 123:6-16) 401, 402, 403: Pipko's current efforts with a different drug not relevant (124:7-10) 601, 602: Personal knowledge/speculation as to what oncologists see in their medical practices, how urologists and palliative care			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	doctors practice medicine, and cancers that cause pain (123:19-124:1, 124:4-17)			
123:17-124:17	106: Incomplete (designate 104:12-24 per FRE 106)			
124:18-125:5	601, 602: Speculation as to how hematologists and hospitalists practice medicine, and as to what types of HCPs focus on oncology patients (124:21, 124:23-24, 125:1-5)			
125:19-127:11	801, 802: Hearsay as to Dr. Kapoor's statements (126:12-19) MIL #1: Efforts not in place by FY14 (126:12-128:9) MIL #3			
127:12-18	MIL #1: Efforts not in place by FY14 MIL #3			
127:19-128:17	601, 602: Speculation as to the patient population for palliative care HCPs (128:1-5, 128:11-17) MIL #1: Efforts not in place by FY14 MIL #3			
128:18-20	Leading question asked at 129:18-19 MIL #1: Efforts not in place by FY14 MIL #3			
128:21-129:1	601, 602: Witness admits to not knowing whether Insys was focusing on palliative HCPs treating cancer patients (128:22) MIL #1: Efforts not in place by FY14 MIL #3			
129:1-14	601, 602: Witness admits to not knowing whether Insys was focusing on palliative HCPs with cancer patients (128:22) MIL #1: Efforts not in place by FY14 MIL #3			
129:15-19	601, 602: Personal knowledge, Speculation MIL #1: Efforts not in place by FY14 MIL #3			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
133:22-134:16	106: Incomplete (designate 134:17-135:10 per FRE 106) MIL #3	134:17-135:10		
135:18-136:9	106: Incomplete (designate 134:17-135:10-143:17-144:13 per FRE 106) 401, 402, 403: Advocacy efforts irrelevant because witness cannot tie them to FY14 sales/revenue growth 601, 602: Personal knowledge and speculation as to why "they" retained and terminated Beckhardt (135:22-136:9) 801, 802: Hearsay as to Kapoor's statements (136:6-9) Foundation as to "they" which is not explained in the answer (135:22-136:3) MIL #1: Efforts not in place by FY14 (Advocacy) MIL #3	134:17-135:10, 143:17-144:13		
136:10-137:13	401, 402, 403: Advocacy efforts irrelevant because witness cannot tie them to FY14 sales/revenue growth 601, 602: Personal knowledge/speculation as to Kapoor's thoughts and actions 801, 802: Hearsay as to Kapoor's statements (136:16-137:13) MIL #1: Efforts not in place by FY14 (Advocacy) MIL #3			
137:14-139:10	401, 402, 403: Advocacy efforts irrelevant because witness cannot tie them to FY14 sales/revenue growth 601, 602: Personal knowledge and speculation as to compliance at other companies (138:23-139:2) 801, 802: Hearsay as to Napoletano's statements (137: 138:16)			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	MIL #1: Efforts not in place by FY14 (Advocacy) MIL #3			
140:5-14	106: Incomplete (designate 141:6-12 per FRE 106) 801, 802: Hearsay as to Napoletano's statements MIL #3	141:6-14		
140:15-141:5	106: Incomplete (designate 141:6-12 per FRE 106) 601, 602: Personal knowledge, Speculation Leading question (140:21-23) Nonresponsive testimony at 140:24 MIL #3	141:6-14		
141:15-142:2	801, 802: Hearsay as to Babich's statements	143:17-144:13		
142:3-23	106: Incomplete (designate 144:15-17 per FRE 106) 401, 402, 403: Future efforts for other potential drugs not relevant to Subsys FY14 sales/revenue growth			
144:18-145:9	106: Incomplete (designate 146:10-22 per FRE 106) MIL #1: Efforts not in place by FY14 MIL #3	144:15-17		
145:23-146:9	106: Incomplete (designate 147:20-148:1 per FRE 106) 601, 602: Personal knowledge and speculation as to the two territories referenced in the exhibit (149:10-19) MIL #1: Efforts not in place by FY14 MIL #3	146:10-22		
146:23-147:12	106: Incomplete (designate 96:12-98:4, 98:7-11, 98:13, 98:22-99:23 per FRE 106) 601, 602: Personal knowledge and speculation as to the "Potential Targets" slide because it was prepared by Napoletano/Yu			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	801, 802: Hearsay as to Napoletano and Yu's statements (150:3-151:6) MIL #1: Efforts not in place by FY14 MIL #3			
148:2-149:19	106: Incomplete (designate 151:7-16 per FRE 106) 401, 402, 403: Subsys attributes not relevant if not tied to FY14 sales/revenue growth MIL #3	147:20-148:1		
149:23-151:6	601, 602: Personal knowledge and speculation as to the "Positioning Potential" slide in light of witness's testimony ("I have no idea") MIL #1: Efforts not in place by FY14 MIL #3	96:12-98:4, 98:7-9, 98:13, 98:22-99-23		
151:17-152:16	401, 402, 403: Advocacy efforts irrelevant because witness cannot tie them to FY14 sales/revenue growth 601, 602: Personal knowledge/speculation as to Kapoor's thoughts and actions 801, 802: Hearsay as to Kapoor's statements MIL #1: Efforts not in place by FY14 (Advocacy) MIL #3	151:7-16		
153:4-154:6	401, 402, 403: Advocacy efforts irrelevant because witness cannot tie them to FY14 sales/revenue growth 601, 602: Personal knowledge/speculation as to compliance at other companies 801, 802: Hearsay as to Napoletano's statements MIL #1: Efforts not in place by FY14 (Advocacy) MIL #3			
154:7-155:14	MIL #1: Efforts not in place by FY14 (onc speaker bureau) MIL #3			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
156:1-18	601, 602: Personal knowledge and speculation as to the difference between the Speaker Program and the oncology speakers bureau Nonresponsive testimony at 156:12-18 to question at 156:5-6 MIL #1: Efforts not in place by FY14 (onc speaker bureau) MIL #3			
156:19-160:1	MIL #1: Efforts not in place by FY14 (onc speaker bureau)			
160:4-161:23	106: Incomplete (designate 161:24-162:6 per FRE 106) 801, 802: Hearsay as to Kapoor's statements MIL #3	161:24-162:6		
162:8-167:7	801, 802: Hearsay as to Babich's statements (163:8-12)			
167:8-168:14	106: Incomplete (designate 168:15-18, 172:22-176:20 per FRE 106)	168:15-18, 172:22-176:20		
168:20-171:1	106: Incomplete (designate 171:12-172:4, 172:7-172:21, 172:22-176:20; 176:23-179:23 per FRE 106)	171:12-172:4, 172:7-172:21, 172:22-176:20; 176:23-179:23		
181:9-13	401, 402, 403: Advocacy efforts irrelevant because witness cannot tie them to FY14 sales/revenue growth MIL #1: Efforts not in place by FY14 (Advocacy) MIL #3			
182:2-184:11	106: Incomplete (190:15-193:6-193:14-195:17 per FRE 106) 401, 402, 403: Advocacy efforts irrelevant because witness cannot tie them to FY14 sales/revenue growth 801, 802: Hearsay as to numerous third party statements	190:15-193:6, 193:14-195:17		

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	MIL #1: Efforts not in place by FY14 (Advocacy) MIL #3			
184:25-186:10	106: Incomplete (186:11-188:9, 190:15-193:6, 193:14-195:17 per FRE 106) 401, 402, 403: Advocacy efforts irrelevant because witness cannot tie them to FY14 sales/revenue growth 801, 802: Hearsay as to numerous third party statements, including Kapoor and Babich MIL #1: Efforts not in place by FY14 (Advocacy) MIL #3	186:11-188:9, 190:15-193:6, 193:14-195:17		
188:10-19	106: Incomplete (186:11-188:9, 190:15-193:6, 193:14-195:17 per FRE 106) 401, 402, 403: Advocacy efforts irrelevant because witness cannot tie them to FY14 sales/revenue growth MIL #1: Efforts not in place by FY14 (Advocacy) MIL #3	186:11-188:9, 190:15-193:6, 193:14-195:17		
189:24-190:14	106: Incomplete (designate 188:20-189:23, 190:15-193:6, 193:14-195:17 per FRE 106) 401, 402, 403: Advocacy efforts irrelevant because witness cannot tie them to FY14 sales/revenue growth MIL #1: Efforts not in place by FY14 (Advocacy) MIL #3	188:20-189:23, 190:15-193:6, 193:14-195:17		
197:4-198:8	106: Incomplete (designate 195:19-197:3 per FRE 106) 801, 802: Hearsay as to third party statements at 198:4-8 Foundation as to "they" in the answer which is not defined in 198:4-8 MIL #3	195:19-197:3		

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
198:9-24	801, 802: Hearsay as to third party statements in 198:20-24 MIL #3			
198:25-200:14	106: Incomplete (designate 200:15-18 per FRE 106) 801, 802: Hearsay as to third party statements at 199:22-23; Hearsay as to Babich's statements at 199:10-13 Foundation as to "they" in 199:20-200:6 MIL #3	200:15-18		
200:21-204:2	106: Incomplete (designate 204:3-11 per FRE 106) MIL #3	204:3-11		
204:12-17	106: Incomplete (designate 204:3-11, 204:18-205:1 per FRE 106) MIL #3	204:3-11, 204:18-205:1		
205:2-206:8	106: Incomplete (designate 204:18-205:1, 206:9-207:24 per FRE 106) MIL #3	204:18-205:1, 206:9-207:23		
209:16-210:3				
210:4-211:2				
211:3-15	601, 602: Personal knowledge and speculation as to what prompted him to send the email about which he is testifying and as to the number of cancer patients with BTCP (211:6-15)			
211:24-212:25	601, 602: Personal knowledge/speculation about "targeting effectively" bullet			
213:1-11	601, 602: Speculation as to whether the palliative care HCPs treated cancer patients (213:8-11)			
213:12-214:23	601, 602: Personal knowledge/speculation as to Subsys' comparative benefits (214:14-23) Nonresponsive testimony at 214:7-10			
215:1-217:19				

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
217:24-219:8	106: Incomplete (designate 219:15-19 per FRE 106) 601, 602: Personal knowledge/speculation as to what patients tell their HCPs (218:20-219:1) Nonresponsive testimony at 218:20-219:1 to question at 218:2-3, 5	219:15-19		
219:9-14	Nonresponsive testimony at 219:11-14 to question at 219:9-10			
219:20-221:5	106: Incomplete (designate 221:6-222:10 per FRE 106) 601, 602: Personal knowledge/speculation with respect to Laurie's issue with finding a speaker (220:7-15)	221:6-222:10		
222:18-224:19	106: Incomplete (designate 222:15-17 per FRE 106) 601, 602: Personal knowledge/speculation as to what the email at issue is referring to (223:21-24:6, 224:10-19) 801, 802: Hearsay as to Beckhardt's statements (223:12-16); Hearsay as to Von Hoff and Alberts' statements at 224:3-6) Nonresponsive testimony at 223:21-224: 6 to question at 223:20 and at 224:10-19 to question at 224:7-9 MIL #1: Efforts not in place by FY14 (onc steering mtg) MIL #3	222:15-17		
224:20-225:11	601, 602: Personal knowledge/speculation as to what the email at issue is referring to (224:23-225:11) Nonresponsive testimony at 224:24-225:11 to question at 224:20-22 MIL #1: Efforts not in place by FY14 (onc steering mtg) MIL #3			
231:10-15	801, 802: Hearsay as to Kapoor's statements			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	Foundation as to what is meant by uncomfortable MIL #3			
234:13-236:8				
241:14-17				
243:14-247:6	401, 402, 403: 243:19-23 is not relevant as it does not contain testimony			
251:8-254:22	601, 602: Personal knowledge or speculation as to growth in prescriptions, the success of the territory, and what other companies did in comparison (254:1-22) Nonresponsive testimony at 254:1-22 to question at 253:24-25 MIL #3 (253:24-254:22)			
254:23-255:8	106: Incomplete (designate 255:9-14 per FRE 106) 601, 602: Speculation as to whether other people's expectations had been met (255:3-5) Nonresponsive testimony at 255:2-8 to question at 254:23-24, 255:1 MIL #3			
256:8-258:9				
263:22-266:9	106: Incomplete (designate 263:11-13, 263:21 per FRE 106) 601, 602: Speculation as to how oncology HCPs practice medicine and treat patients and how patients interact with oncology HCPs (265:17-266:9) Nonresponsive testimony at 264:23-265:1 (no question pending)	263:11-13, 263:21		
276:19-21	MIL #3			
276:22-279:4	106: Incomplete (designate 279:5-12 per FRE 106) 601, 602: Speculation as to why he was hired (276:25-277:5), Personal	279:5-12		

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	<p>knowledge/speculation as to Wachsmann's capabilities and "passions" (277:13-20)</p> <p>801, 802: Hearsay as to Babich and Kapoor's statements (277:4-5), Hearsay as to statements by third parties including Kapoor (278:4-15)</p> <p>Narrative response at 277:6-278:15</p> <p>Nonresponsive testimony at 276:25-277:2 to question at 276:22-24</p> <p>MIL #1: Efforts not in place by FY14</p> <p>MIL #3</p>			
279:13-294:22	<p>106: Incomplete (designate 279:5-12 per FRE 106)</p> <p>601, 602: Personal knowledge/speculation as to what Exhibit 102 is; as to the relevance and use of nurses in oncology strategy (280:24-281:9, 293:8-15); as to access to community cancer centers (281:10-16); as to make up of the speaker program (281:23-282:6); as to the Oncology division infrastructure slide (284:2-288:7), as to cancer patients thoughts/actions (289:16-20), as to what Exhibit 103 is (292:15-294:9), as to why Kapoor was willing to hire an oncology nurse (294:10-22)</p> <p>801, 802: Hearsay as to Kapoor's statements (287:6-12, 288:12-15, 289:2-7, 291:8-10, 293:23-294:5, 294:19-22)</p> <p>Foundation as to whether Pipko put the Subsys Strategy Growth Initiatives slide together or whether he understood the information on the slide (280:2-281:20); as to what speaker program he is testifying about at 281:17-282:11; as to whether any of these "efforts" were in place or completed in FY14 (entire designation)</p>	279:5-12		

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	<p>Nonresponsive testimony at 280:24-281:9 and at 282:7-11 to question at 281:21-22; testimony at 292:20-294:9 to question at 292:14</p> <p>Narrative at 280:11-281:20; further narrative provided at 283:7-20; narrative at 284:7-288:7; further narrative provided at 292:15-294:9</p> <p>MIL #1: Efforts not in place by FY14</p> <p>MIL #3</p>			
294:24-301:24	<p>601, 602: Personal knowledge/speculation as to what Kapoor thought (295:16-296:2); as to what Babich thought or did (296:18-24); as to the Form 10-K for FY14 and statements set forth therein (299:20-301:24); as to the Company's overall Subsys usage in FY14 (301:4-12, 301:14-24); as the key factors in generating Subsys usage in FY14 (301:4-12, 301:14-24)</p> <p>601: Legal conclusion as to whether statement at issue is "true" (301:14-24)</p> <p>801, 802: Hearsay as to Kapoor's statements (296:9-17, 299:14-16)</p> <p>Foundation as to timeframe (294:24-298:15 and 301:4-24); what "successful" or "succeed" means (295:4-5, 7; 296:4-5, 7;); as to what "supported" or "support" means (295:9-10, 12-14; 296:18-19, 22-24); as to what the language at issue in the 10-K means (299:20-301:24)</p> <p>Nonresponsive testimony at 297:25-298:6</p> <p>MIL #1: Efforts not in place by FY14</p> <p>MIL #3</p>			
302:2-303:18	<p>601, 602: Personal knowledge/speculation as to the Form 10-K for FY14 and statements set forth therein (302:2-303:18); as to the Company's overall Subsys usage in FY14</p>			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	<p>(302:2-303:18); as the key factors in generating Subsys usage in FY14 (302:2-303:18); as to what Kapoor's beliefs are (302:20-303:18)</p> <p>601: Legal conclusion as to whether statement at issue is "true" (302:2-11)</p> <p>801, 802: Hearsay as to Kapoor's statements (303:13-18)</p> <p>Foundation as to timeframe (302:2-303:18); as to what the language at issue in the Form 10-K means (302:2-303:18)</p> <p>Nonresponsive testimony at 297:25-298:6</p> <p>MIL #3</p>			
304:21-305:2	<p>601, 602: Personal knowledge/speculation as to the Form 10-K for FY14 and statements set forth therein (304:21-305:2); as to Kapoor's actions or beliefs (304:21-305:2)</p> <p>801, 802: Hearsay as to Kapoor's statements (304:21-305:2)</p> <p>Foundation as to what "support" means"(304:21-305:2); as to what the language at issue in the Form 10-K means (304:21-305:2)</p> <p>MIL #3</p>			
306:16-24	<p>401, 402, 403: Complaint allegations are not relevant to any claim or defense; Testimony based on excerpt of complaint allegations chosen by Defendants is unfair, confusing, and prejudicial (306:16-24); Testimony based on inadmissible document is unfair, confusing and prejudicial (306:16-24)</p> <p>601, 602: Personal knowledge/speculation as to the allegations in this matter; as to the complaint filed in this matter; as to the excerpt created by Defendants</p>			
307:4-15	<p>401, 402, 403: Complaint allegations are not relevant to any claim or defense; Testimony</p>			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	<p>based on excerpt of complaint allegations chosen by Defendants is unfair, confusing, and prejudicial (307:4-307:15); Testimony based on inadmissible document is unfair, confusing and prejudicial (307:4-307:15)</p> <p>601, 602: Personal knowledge/speculation as to the allegations in this matter; as to the complaint filed in this matter; as to the excerpt created by Defendants; as to the 4Q14 conference call; as to the statements Babich made on the 4Q14 conference call</p> <p>Foundation as to whether the allegation presents the full statement Babich made during the 4Q14 conference call</p>			
308:19-309:18	<p>401, 402, 403: Complaint allegations are not relevant to any claim or defense; Testimony based on excerpt of complaint allegations chosen by Defendants is unfair, confusing, and prejudicial (308:19-309:18); Testimony based on inadmissible document is unfair, confusing and prejudicial (308:19-309:18)</p> <p>601, 602: Personal knowledge/speculation as to the allegations in this matter; as to the complaint filed in this matter; as to the excerpt created by Defendants; as to the 4Q14 conference call; as to the statements Babich made on the 4Q14 conference call; as to what Babich meant by his statements during the 4Q14 conference call</p> <p>601: Legal conclusion as to whether statement at issue is "true" (308:19-309:18)</p> <p>Foundation as to whether the allegation presents the full statement Babich made during the 4Q14 conference call; as to what Babich meant by the statement on the 4Q14 conference call; as to the time frame of the statement</p>			

Di Donato v. Babich, et al., No. 16-cv-00302-NVW (D. Ariz.)

Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
310:8-311:22	<p>401, 402, 403: Complaint allegations are not relevant to any claim or defense; Testimony based on excerpt of complaint allegations chosen by Defendants is unfair, confusing, and prejudicial (310:8-311:22); Testimony based on inadmissible document is unfair, confusing and prejudicial (310:8-311:22)</p> <p>601, 602: Personal knowledge/speculation as to the allegations in this matter; as to the complaint filed in this matter (310:8-311:22); as to the excerpt created by Defendants (310:8-311:22); as to the 4Q14 conference call; as to the statements Babich made on the 4Q14 conference call; as to what Babich meant by his statements during the 4Q14 conference call (310:8-311:22); as to the effort that Insys purportedly made versus other companies (311:13-22)</p> <p>601: Legal conclusion as to whether statement at issue is "true" (310:8-311:22)</p> <p>Foundation as to whether the allegation presents the full statement Babich made during the 4Q14 conference call; as to what Babich meant by the statement on the 4Q14 conference call; as to the time frame of the statement; as to the time frame of Pipko's testimony at 311:13-22</p>			
312:8-314:8	<p>401, 402, 403: Complaint allegations are not relevant to any claim or defense (312:8-314:8); Testimony regarding allegations in the complaint are not relevant to the claims/defenses (312:21-314:8); Testimony based on excerpt of complaint allegations chosen by Defendants is unfair, confusing, and prejudicial (312:8-314:8); Testimony based on inadmissible document is unfair, confusing and prejudicial (312:8-314:8)</p>			

Di Donato v. Babich, et al., No. 16-cv-00302-NVW (D. Ariz.)

Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	<p>601, 602: Personal knowledge/speculation as to the allegations in this matter; as to the complaint filed in this matter (312:8-314:8); as to the excerpt created by Defendants (312:8-314:8); as to what Defendants' represented to investors; as to whether Insys (as opposed to Pipko's division) focused on HCPs who treated BTCP(312:21-314:8); as to whether Defendants actively discouraged efforts directed to oncologists outside of Pipko's division before or during his employment BTCP(312:21-314:8)</p> <p>Foundation as to time frame of the allegations raised by defendants (312:8-314:8); as to time frame of Pipko's testimony (312:8-314:8)</p> <p>MIL #3</p>			
314:9-316:2	<p>601, 602: Personal knowledge/speculation as to whether anyone other than Pipko discouraged marketing to oncologists (314:9-20); as to Insys business before Pipko started (315:7-316:2); as to purported growth in prescriptions (315:7-316:2); as to whether Insys expanded prescribers or prescriptions (315:7-316:2)</p> <p>Foundation as to timeframe (314:9-316:2); as to what "successful" means (314:22-316:2)</p> <p>Compound question at 314:9-14</p> <p>MIL #3</p>			
316:6-319:4	<p>601, 602: Speculation as to Kapoor's beliefs or interest (317:25-318:10)</p> <p>801, 802: Hearsay as to Fourteau's statements (317:5-9, 317:22-318:2); Hearsay as to Kapoor's statements (317:25-318:16)</p> <p>Foundation as to "anybody" or "anybody else" (318:19-319:4)</p>			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	MIL #1: Efforts not in place by FY14 MIL #3			
319:13-327:9	<p>401, 402, 403: Resume of someone Insys was thinking of hiring for oncology group is not relevant to the claims/defenses (323:11-324:13); Information that can be provided to oncology HCPs by Insys sales staff is not relevant to the claims/defenses (325:11-326:13);</p> <p>601, 602: Personal knowledge/speculation as to what 24 of 31 refers to or means (319:23-320:13); as to what Exhibit 108 refers to (321:17-322:4); as to "feedback" from Wachsmann and other reps (321:22-322:4); as to whether the scripts were written by oncologists (322:5-15); as to what Burlakoff was referring to (322:25-323:7, 323:21-324:5); as to Maggie Guerrero's qualifications (325:12-15); as to why Guerrero was emailing the oncology sales group (326:9-326:22); the credibility and use of NCCN guidelines to expand awareness (326:11-327:6)</p> <p>801, 802: Hearsay as to Burlakoff's statements (320:14-23, 322:25-323:7, 323:21-324:5); Hearsay as to Wachsmann's statements (321:17-20, 321:22-322:4); Hearsay as to Guerrero's statements (325:22-326:8)</p> <p>Foundation as to "the reports that Ryan Pitts would send out" (320:8-13); as to what "supportive" means (324:10-13); as to how Insys purportedly used NCCN guidelines to expand awareness among oncologists of Subsys (326:23-327:6)</p>			
327:13-330:7	401, 402, 403: Percentage of scripts/revenues artificially inflated by the Factor is unfair, prejudicial, confusing (403) (329:15-24)			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	<p>601, 602: Speculation as to whether calendar invite reflects an oncology division meeting (327:18-328)</p> <p>801, 802: Hearsay as to Von Hoff and Alberts' statements (328:10-15); Hearsay as to Burlakoff's statements (329:25-330:16)</p> <p>Foundation as to "one of the meetings that you testified about earlier today with respect to the oncology division" given the number of meetings previously identified (328:2-15); as to whether "new prescribers" and "new prescribers" is company-wide or oncology division specific (329:15-24)</p> <p>MIL #1: Efforts not in place by FY14</p> <p>MIL #3</p>			
330:8-19	<p>801, 802: Hearsay as to Burlakoff's statements (329:25-330:16)</p> <p>MIL #3</p>			
330:20-333:18	<p>401, 402, 403: Percentage of scripts/revenues coming from oncologists when these numbers were artificially inflated by the Factor is unfair, prejudicial, and confusing (403) (330:23-18, 333:11-18);</p> <p>601, 602: Personal knowledge/speculation as to "great progress as of January 2014" (330:23-18); as to the source of the data in Pipko's 3/3/15 email (332:6-19)</p> <p>801, 802: Hearsay as to Burlakoff's statements (331:5-6, 332:20-333)</p> <p>Foundation as to "great progress as of January 2014" means given document is from 2015 (330:23-18); as to "success" means (333:2-6)</p> <p>MIL #1: FY15 results irrelevant (330:23-18, 333:11-18); Postdates Misstatements (333:11-18)</p> <p>MIL #3</p>			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
334:3-336:3	<p>401, 402, 403: Percentage of scripts/revenues artificially inflated by the Factor is unfair, prejudicial, confusing (403) (334:3-335:4)</p> <p>601, 602: Speculation as to whether “growth among oncologists has contributed substantially to Subsys’ product growth” (334:20-335:3)</p> <p>Foundation as to what “contributed substantially means”; as to time frame (335:5-336:3); as to what “progress” and “goals” means (335:11-23)</p> <p>MIL #1: FY15 results irrelevant (334:3-335:4); Postdates Misstatements (334:3-335:4); Efforts not in place by FY14 (334:3-335:4, 335:8-336:3)</p> <p>MIL #3</p>			
336:4-340:16	<p>401, 402, 403: Whether patients benefited from Subsys is not relevant to the claims/defenses (337:3-8); Whether Kapoor played tennis is not relevant (340:1-6)</p> <p>601, 602: Speculation as to what others at Insys thought about the oncology division (336:12-337:1); as to the impact of Subsys on patients (337:3-8); as to Kapoor’s requests (339:16-22)</p> <p>601: Legal conclusion as to whether witness was asked to “bribe” patient advocacy groups (337:10-25, 339:3-) or oncologists (338:5-339:1)</p> <p>801, 802: Hearsay as to Kapoor’s statements (336:6-10, 337:10-20, 338:5-16, 339:16-22)</p> <p>Foundation as to “anybody” or “anyone” and timeframe (336:12-17, 337:22-338:4, 338:18:21); as to “valiant effort” (336:19-337:1); as to “significant contribution” (337:3-8); as to “patient advocacy groups” “bribes” and timeframe (337:10-25); as to</p>			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	<p>"oncologists," "bribes," and timeframe (338:5-339:1); as to timeframe (339:16-22); as to government "investigations" and timeframe (340:7-14)</p> <p>MIL #1: Efforts not in place by FY14</p> <p>MIL #3</p>			
338:5-339:1	Subsumed within prior designation			
341:23-342:24	<p>106: Incomplete (369:3-370:4, 371:5-12 per FRE 106)</p> <p>601, 602: Speculation as to Burlakoff's "honest expression" of his "opinion" (342:19-24)</p> <p>801, 802: Hearsay as to Burlakoff's statements (342:19-24)</p> <p>MIL #1: FY15 results irrelevant; Postdates Misstatements</p> <p>MIL #3</p>	369:3-370:4, 371:5-12		
348:10-20	<p>601, 602: Speculation as to Babich's "attitudes with respect to the sale of Subsys to cancer patients" and Pipko's "efforts" (348:10-20)</p> <p>801, 802: Hearsay as to Babich's statements (348:17-20)</p> <p>Foundation as to timeframe</p>			
349:15-350:10	<p>601, 602: Speculation as to whether Pipko spoke with Babich regarding his "efforts" (349:15-350:10)</p> <p>801, 802: Hearsay as to Babich's statements (349:21-350:10)</p> <p>Foundation as to meaning of "efforts" (349:21-350:10), as to the number, content, and timeframe of the "conversations" referenced (349:21-350:10)</p>			
351:18-352:5	<p>401, 402, 403: Complaint allegations are not relevant to any claim or defense; Testimony based on excerpt of complaint allegations chosen by Defendants is unfair, confusing,</p>			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	<p>and prejudicial (351:18-352:5); Testimony based on inadmissible document is unfair, confusing and prejudicial (351:18-352:5)</p> <p>601, 602: Personal knowledge/speculation as to the allegations in this matter; as to the complaint filed in this matter (351:18-352:5); as to the excerpt created by Defendants (351:18-352:5); as to the Form 10-K for FY14 and statements set forth therein (351:18-352:5); as to the Company's overall Subsys usage in FY14 (351:18-352:5); as the key factors in generating Subsys usage in FY14 (351:18-352:5)</p> <p>601: Legal conclusion as to whether statement at issue is "true" (351:18-352:5)</p> <p>Foundation as to timeframe (351:18-352:5); as to what the language at issue in the Form 10-K means (351:18-352:5)</p>			
353:2-6	<p>401, 402, 403: Complaint allegations are not relevant to any claim or defense; Testimony based on excerpt of complaint allegations chosen by Defendants is unfair, confusing, and prejudicial (353:2-353:6); Testimony based on inadmissible document is unfair, confusing and prejudicial (353:2-353:6)</p> <p>601, 602: Personal knowledge/speculation as to the allegations in this matter; as to the complaint filed in this matter (353:2-353:6); as to the excerpt created by Defendants (353:2-353:6); as to the Form 10-K for FY14 and statements set forth therein (353:2-353:6); as to the Company's overall Subsys usage in FY14 (353:2-353:6); as the key factors in generating Subsys usage in FY14 (353:2-353:6)</p> <p>601: Legal conclusion as to whether statement at issue is "true" (351:18-352:5)</p>			

Di Donato v. Babich, et al., No. 16-cv-00302-NVW (D. Ariz.)

Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	Foundation as to timeframe (351:18-352:5); as to what the language at issue in the Form 10-K means (351:18-352:5)			
358:18-23	106: Incomplete (designate 359:20-360:18, 361:16-19, 361:21-362:1 per FRE 106) 601, 602: Speculation as to what Babich meant by "unique programs in the oncology setting" Foundation as to when in March 2015, as to how "unique" is defined and assessed, as to "oncology setting," as to "programs" MIL #1: Efforts not in place by FY14	359:20-360:18, 361:19, 361:21-362:1		

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Plaintiff Class's Designations
Testifying Witness: Baker, Darryl
Date of Testimony: June 18, 2019 (*Di Donato* Matter)

Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ⁷	Plaintiff Class's Objections to Defendants' Counter Designations
8:25-9:13				
9:18-9:22				
11:18-12:6				
17:7-17:16				
21:1-21:3				
22:12-22:20				
23:16-24:9				
32:8-33:10				
35:1-35:3				
35:15-35:17				
35:18-36:1				
80:11-82:7				
82:14-83:17				
83:18-84:1				
84:4-84:7				
126:5-127:13				
184:14-185:5				
186:12-188:13				
188:17-188:18				
195:17-195:20				
195:25-196:2				
196:3-196:5				
251:11-251:22			251:23-252:2	
252:3-252:7				
252:10-252:20			252:21-23	
252:24-255:12				
255:15-255:15				
255:17-256:2			256:3-4, 6-7	

⁷ These designations have been identified as for "completeness" pursuant to Fed. R. Evid. 106.

Di Donato v. Babich, et al., No. 16-cv-00302-NVW (D. Ariz.)

Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ⁷	Plaintiff Class's Objections to Defendants' Counter Designations
256:8-256:10	401-403: Criminal charges against non-parties are irrelevant to claims at issue and prejudicial to defendant 601-602: Witness has no personal knowledge. 801-802: calls for hearsay.	Foundation exists based on prior testimony; the Criminal Enterprise is relevant to the Plaintiff Class's claims because, among other things, it was an undisclosed key factor in Subsys revenue and sales growth for FY14; Defendants have not articulated the 403 concern; Question is seeking to establish whether there is knowledge; Hearsay issue is unclear		
256:12-256:16	401-403: Criminal charges against non-parties are irrelevant to claims at issue and prejudicial to defendant 601-602: Witness has no personal knowledge. 801-802: calls for hearsay.	Foundation exists based on prior testimony; the Criminal Enterprise is relevant to the Plaintiff Class's claims because, among other things, it was an undisclosed key factor in Subsys revenue and sales growth for FY14; Defendants have not articulated the 403 concern; Witness clearly testifies to personal knowledge; No hearsay because witness is describing his own acts		
256:18-256:22	401-403: Criminal charges against non-parties are irrelevant to claims at issue and prejudicial to defendant 601-602: Witness has no personal knowledge. 801-802: calls for hearsay.	Foundation exists based on prior testimony; the Criminal Enterprise is relevant to the Plaintiff Class's claims because, among other things, it was an undisclosed key factor in Subsys revenue and sales growth for FY14; Defendants have not articulated the 403 concern; Witness clearly testifies to personal knowledge; No hearsay because witness is describing his own acts		
289:14-289:20				
290:3-290:19				
290:23-291:20				

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ⁷	Plaintiff Class's Objections to Defendants' Counter Designations
291:23-291:25				
292:1-293:11	293:6-23 foundation, prejudice, relevance, argumentative, Rule 403	Question provides the foundation; question is only asking the witness whether the statements are "inconsistent"; Testimony is relevant because Defendants have asserted that counsel was aware of all facts as part of reliance on counsel defense; Defendants have not articulated prejudice		
293:19-293:21	293:6-23 foundation, prejudice, relevance, argumentative, Rule 403	Question provides the foundation; question is only asking the witness whether the statements are "inconsistent"; Testimony is relevant because Defendants have asserted that counsel was aware of all facts as part of reliance on counsel defense; Defendants have not articulated prejudice		
293:23-293:23	293:6-23 foundation, prejudice, relevance, argumentative, Rule 403	Question provides the foundation; question is only asking the witness whether the statements are "inconsistent"; Testimony is relevant because Defendants have asserted that counsel was aware of all facts as part of reliance on counsel defense; Defendants have not articulated prejudice	293:24-25; 294:3-295:1	
299:5-299:18	297:3-300:14 foundation speculation, competence, hearsay, prejudice, argumentative, Rule 403	Question provides the foundation; question is only asking the witness whether the statements are "inconsistent"; Testimony is relevant because Defendants have asserted that counsel was aware of all facts as part of reliance on		

Di Donato v. Babich, et al., No. 16-cv-00302-NVW (D. Ariz.)

Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ⁷	Plaintiff Class's Objections to Defendants' Counter Designations
		counsel defense; Defendants have not articulated prejudice		
299:22-300:14	297:3-300:14 foundation speculation, competence, hearsay, prejudice, argumentative, Rule 403	Question provides the foundation; question is only asking the witness whether the statements are "inconsistent"; Testimony is relevant because Defendants have asserted that counsel was aware of all facts as part of reliance on counsel defense; Defendants have not articulated prejudice		
300:20-300:22	300:20-301:8 foundation speculation, competence, hearsay, prejudice, argumentative, Rule 403	Question provides the foundation; question is only asking the witness whether the statements are "inconsistent"; Testimony is relevant because Defendants have asserted that counsel was aware of all facts as part of reliance on counsel defense; Defendants have not articulated prejudice		
300:24-301:2	300:20-301:8 foundation speculation, competence, hearsay, prejudice, argumentative, Rule 403	Question provides the foundation; question is only asking the witness whether the statements are "inconsistent"; Testimony is relevant because Defendants have asserted that counsel was aware of all facts as part of reliance on counsel defense; Defendants have not articulated prejudice		
301:3-301:4	300:20-301:8 foundation speculation, competence, hearsay, prejudice, argumentative, Rule 403	Question provides the foundation; question is only asking the witness whether the statements are "inconsistent"; Testimony is relevant because Defendants have asserted that counsel was aware of all facts as part of reliance on		

Di Donato v. Babich, et al., No. 16-cv-00302-NVW (D. Ariz.)

Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ⁷	Plaintiff Class's Objections to Defendants' Counter Designations
		counsel defense; Defendants have not articulated prejudice		
301:8-301:8				

Defendants' Designations
Testifying Witness: Baker, Darryl
Date of Testimony: June 18, 2019 (*Di Donato* Matter)

Defendants' Designations	Plaintiff Class's Objections ⁸	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
9:18-20				
17:17-22	106: Incomplete (designate 17:23-24 per FRE 106) 401, 402, 403: Mr. Baker's background is not relevant to claims/defenses	17:23-24		
17:25-18:4	106: Incomplete (designate 18:5-8 per FRE 106) 401, 402, 403: Mr. Baker's background is not relevant to claims/defenses	18:5-8		
21:1-3				
21:19-22:3	106: Incomplete (designate 22:9-11 per FRE 106)	22:9-11		
22:12-17				
23:10-15				
27:16-18	106: Incomplete (designate 27:19-25 per FRE 106)	27:19-25		

⁸ The Plaintiff Class will update these objections to reflect the Court's individual practices as well as the severance of the Plaintiff Class's claims as to Mr. Baker.

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Defendants' Designations	Plaintiff Class's Objections ⁸	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	401, 402, 403: Mr. Baker's current employment is not relevant to claims/defenses			
28:4-18				
32:8-25				
33:1-10				
34:24-36:1				
38:1-40:25	401, 402, 403: Participation in 10-Q drafting not relevant to claims/defenses; Counsel's involvement is not relevant, misleading, unfair, confusing, and prejudicial (38:1-40:2) Foundation as to 10-Qs, timeframe, and witness's involvement with them MIL #3			
46:16-22	Foundation as to quarterly conference calls, timeframe, and witness's involvement with them MIL #3			
47:9-49:12	401, 402, 403: Counsel's involvement in the process for drafting 10-K and conference call script not relevant, misleading, unfair, confusing, and prejudicial (47:16-21) Foundation as to quarterly conference calls, timeframe, and witness's involvement with them MIL #3			
64:18-25	401, 402: Relevance of testimony is unclear Foundation			

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Defendants' Designations	Plaintiff Class's Objections ⁸	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
65:21-25	401, 402: Relevance of testimony is unclear Foundation			
66:1-2	401, 402: Relevance of testimony is unclear Foundation			
66:4-5	401, 402: Relevance of testimony is unclear Foundation			
74:3-7	401, 402, 403: SOX is not relevant to claims/defenses; Mr. Baker's certification of the 10-K is not relevant to claims/defenses			
74:10-76:24	401, 402, 403: SOX is not relevant to claims/defenses; Mr. Baker's certification of the 10-K is not relevant to claims/defenses; existence or appropriateness of controls not relevant to claims/defenses; involvement of counsel and the SOX certification process is not relevant, misleading, unfair, confusing, and prejudicial; disclosure committee not relevant because witness couldn't testify to when it was in place MIL #3			
80:7-15				
83:18-84:7				
85:22-86:2	106: Incomplete (designate 85:6-11 per FRE 106)	85:6-11		
93:5-11	106: Incomplete (designate 93:2-4 per FRE 106) 401, 402, 403: Putative/aspirational oncological efforts or programs not	93:2-4		

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Defendants' Designations	Plaintiff Class's Objections ⁸	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	executed/implemented by FY14 not relevant to claims/defenses 601, 602: Personal knowledge/speculation as to what was discussed at meetings in FY14 about the oncology initiative Foundation as to "oncology initiative" MIL #3			
93:17-23	106: Incomplete (designate 93:12-16 per FRE 106) 401, 402, 403: Putative/aspirational oncological efforts or programs not executed/implemented by FY14 not relevant to claims/defenses 601, 602: Personal knowledge/speculation as to what was discussed at meetings in FY14 about the oncology initiative Foundation as to "oncology initiative" MIL #3	93:12-16		
93:25-94:20	106: Incomplete (designate 93:2-4 per FRE 106) 401, 402, 403: Putative/aspirational oncological efforts or programs not executed/implemented by FY14 not relevant to claims/defenses 601, 602: Personal knowledge/speculation as to what was discussed at meetings in FY14 about the oncology initiative Foundation as to "oncology initiative" MIL #3			

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Defendants' Designations	Plaintiff Class's Objections ⁸	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
95:3-96:19	106: Incomplete (designate 93:2-4 per FRE 106) 401, 402, 403: Putative/aspirational oncological efforts or programs not executed/implemented by FY14 not relevant to claims/defenses 601, 602: Personal knowledge/speculation as to what was discussed at meetings in FY14 about the oncology initiative Foundation as to "oncology initiative"			
118:20-119:17	401, 402, 403: Relevance of testimony is not clear Foundation as to the dashboard and process for providing information and timeframe; as to the functional leaders			
142:6-143:2	106: Incomplete (designate 143:3-144:3 per FRE 106) MIL #3	143:3-144:3		
144:4-145:7	106: Incomplete (designate 145:8-11 per FRE 106) 401, 402, 403: Speculation as to whether oncologists referred patients to pain HCPs not relevant to claims/defenses and also misleading, unfair, confusing and prejudicial 601, 602: Personal knowledge/speculation as to how oncologists practice medicine and engage in referrals MIL #3	145:8-11		
145:17-146:14	106: Incomplete (designate 146:15-147:2 per FRE 106)	146:15-147:2, 147:4-8		

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Defendants' Designations	Plaintiff Class's Objections ⁸	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	401, 402, 403: Speculation as to whether oncologists referred patients to pain HCPs not relevant to claims/defenses and also misleading, unfair, confusing and prejudicial 601, 602: Personal knowledge/speculation as to how oncologists practice medicine and engage in referrals Misstates testimony as to whether there was data supporting speculation (compare 145:21-24 with 145:8-11) Foundation As to the data reviewed and timeframe for testimony MIL #3			
147:9-13				
147:23-148:4	401, 402, 403: Other unnamed reports the witness cannot recall receiving and cannot describe are not relevant to claims/defenses 601, 602: Personal knowledge/speculation as to what reports witness received in 2014 MIL #3	148:5-11		
156:14-24	106: Incomplete (designate 154:10-155:24, 156:8-10, 156:12-13 per FRE 106) 401, 402, 403: Relevance of testimony is unclear Foundation MIL #3	154:10-155:24 156:8-10 156:12-13		
163:22-164:4	106: Incomplete (designate 160:23-161:15, 164:5-7 per FRE 106)	160:23-161:15 164:5-7		
167:3-13	Foundation as to timeframe			

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Defendants' Designations	Plaintiff Class's Objections ⁸	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
167:16-172:1	601, 602: Personal knowledge/speculation as to how the speaker program worked			
173:4-9	106: Incomplete (designate 172:5-18 per FRE 106)	172:5-18		
173:12-23				
173:24-174:7				
175:15-176:1				
176:1				
176:4-6				
176:7-8				
176:11-15				
176 :18-22				
176:25-177:9				
177:16-178:23				
179:1-3				
183:18-25	401, 402, 403: Putative/aspirational oncological efforts not implemented or executed by FY14 not relevant to claims/defenses Foundation as to “various presentations” and the “advisory board meeting” MIL #3			
186:12-25				
187:1-25				
188:1-14				
188:17-189:1				
189:9-13				
189:18-190:2				
190:3-12				

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Defendants' Designations	Plaintiff Class's Objections⁸	Plaintiff Class's Counter Designations	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
190:15-23				
191:4-7				
191:15-24				
192:2-193:1				
193:4- 194:9				
194:12-195:8				
195:11				
195:12-20				
195:25-196:9				
196:21-197:9				

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Plaintiff Class's Designations
Testifying Witness: Kapoor, John
Date of Testimony: June 20, 2019 (*Di Donato* Matter)

Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
10:14-10:15				
10:20-10:24				
11:6-11:7				
11:9-11:16				
11:19-12:1				
12:4-12:11				
12:14-12:18				
13:7-13:9				
13:12-13:16				
13:17-13:19				
13:22-14:1				
15:3-15:4				
15:7-15:11				
15:12-15:14				
15:17-15:21				
20:21-20:24				
21:3-21:7				
24:14-24:19				
24:24-25:3				
34:9-34:12				
34:15-34:19				
35:6-35:9	401-403: Testimony about the criminal proceeding is prejudicial to Defendants and not relevant to the claims. 801-802: calls for hearsay, legal conclusion	The Criminal Enterprise is relevant to the Plaintiff Class's claims because, among other things, it was an undisclosed key factor in Subsys revenue and sales growth for FY14; Defendants have not articulated the 403 concern; To the extent that the question uses the jury verdict for the truth of the matters asserted therein,		

Di Donato v. Babich, et al., No. 16-cv-00302-NVW (D. Ariz.)

Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
		FRE 803(22) applies; Question as to what the jury verdict was in the Boston Trial does not require a legal conclusion		
35:12-35:16	401-403: Testimony about the criminal proceeding is prejudicial to Defendants and not relevant to the claims. 801-802: calls for hearsay, legal conclusion	The Criminal Enterprise is relevant to the Plaintiff Class's claims because, among other things, it was an undisclosed key factor in Subsys revenue and sales growth for FY14; Defendants have not articulated the 403 concern; To the extent that the question uses the jury verdict for the truth of the matters asserted therein, FRE 803(22) applies; Question as to what the jury verdict was in the Boston Trial does not require a legal conclusion		
35:17-35:20	401-403: Testimony about the criminal proceeding is prejudicial to Defendants and not relevant to the claims. 801-802: calls for hearsay, legal conclusion	The Criminal Enterprise is relevant to the Plaintiff Class's claims because, among other things, it was an undisclosed key factor in Subsys revenue and sales growth for FY14; Defendants have not articulated the 403 concern; To the extent that the question uses the jury verdict for the truth of the matters asserted therein, FRE 803(22) applies; Question as to what the jury verdict was in the Boston Trial does not require a legal conclusion		
35:23-36:2	401-403: Testimony about the criminal proceeding is prejudicial to Defendants and not relevant to the claims. 801-802: calls for hearsay, legal conclusion	The Criminal Enterprise is relevant to the Plaintiff Class's claims because, among other things, it was an undisclosed key factor in Subsys revenue and sales growth for FY14; Defendants have not articulated the		

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
		403 concern; To the extent that the question uses the jury verdict for the truth of the matters asserted therein, FRE 803(22) applies; Question as to what the jury verdict was in the Boston Trial does not require a legal conclusion		
39:12-39:15				
39:18-39:22				
39:23-40:4				
40:8-40:12				
40:13-40:16				
40:19-40:23				
40:24-41:3				
41:6-41:10				
41:11-41:15				
41:20-41:24				
41:25-42:4	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The Criminal Enterprise is relevant to the Plaintiff Class's claims because, among other things, it was an undisclosed key factor in Subsys revenue and sales growth for FY14; Defendants have not articulated the 403 concern		
42:9-42:13				
42:22-43:1				
43:6-43:6				
43:7-43:12				
43:17-43:17				
43:18-43:23				
44:3-44:7				
44:8-44:13				
44:18-44:22				
44:23-45:2				
45:7-45:7				

Di Donato v. Babich, et al., No. 16-cv-00302-NVW (D. Ariz.)

Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
45:8-45:11				
45:16-45:20				
45:21-46:1				
46:6-46:10				
46:11-46:15				
46:20-46:24				
46:25-47:4				
47:9-47:13				
47:14-47:18				
47:22-48:1				
48:2-48:7				
48:11-48:15				
48:16-48:21				
49:1-49:5				
49:6-49:10				
49:14-49:18				
50:8-50:11	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants. 601-602: No foundation that "many" patients were inappropriately prescribed Subsys	The Criminal Enterprise is relevant to the Plaintiff Class's claims because, among other things, it was an undisclosed key factor in Subsys revenue and sales growth for FY14; Defendants have not articulated the 403 concern; Relevant if Defendants can put at issue the medical necessity of Subsys		
50:16-50:20	relevance, prejudice	Relevant if Defendants can put at issue the medical necessity of Subsys		
51:8-51:11				
51:15-51:19				
51:20-51: 23				
52:3-52:7				
52:8-52:12				
52:17-52:21				
52:22-53:1				

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
53:6-53:10				
53:11-53:15				
53:20-24				
53:25-54:4				
54:9-54:13				
56:1-56:5				
56:10-56:14				
56:15-56:19				
56:23-57:2				
59:5-59:9				
59:14-59:18				
59:19-59:23				
60:3-60:7				
60:8-60:12				
60:17-60:21				
61:5-61:9				
61:14-61:18				
61:19-61:23				
62:3-62:7				
62:8-62:13				
62:18-62:22				
63:12-63:17				
63:22-64:1				
64:2-64:8				
64:13-64:17				
64:21-65:3				
65:6-65:10				
66:11-66:15				
66:18-66:22				
67:1-67:4				
67:7-67:11				
67:12-67:18				
67:23-68:2				
68:3-68:6				

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
68:10-68:14				
69:21-69:24				
70:3-70:7				
71:22-71:25				
72:5-72:9				
76:13-76:15				
76:19-76:23				
76:24-77:2				
77:6-77:10				
77:11-77:13				
77:17-77:21				
79:16-79:18				
79:23-80:2				
80:3-80:5				
80:10-80:14				
80:15-80:19	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	Any discussion of the IRC's efforts to obtain PAs at the 8:30 am meeting attended by Kapoor is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue; Defendants have not articulated any prejudice		
80:24-81:3	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	Any discussion of the IRC's efforts to obtain PAs at the 8:30 am meeting attended by Kapoor is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue; Defendants have not articulated any prejudice		
81:7-81:11	401-403: Conduct at issue in criminal trial is not relevant to the	Any discussion of the IRC's efforts to obtain PAs at the 8:30 am		

Di Donato v. Babich, et al., No. 16-cv-00302-NVW (D. Ariz.)

Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
	claims and is unfairly prejudicial to Defendants	meeting attended by Kapoor is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue; Defendants have not articulated any prejudice		
81:12-81:14				
81:18-81:22				
81:23-81:25				
82:4-82:8				
82:9-82:14	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
82:18-82:22	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
83:20-83:22	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
84:2-84:6	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
84:15-84:17	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
84:22-84:22	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
85:6-85:8	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
85:13-85:17	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the		

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
		existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
86:20-86:22	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
87:2-87:6	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
87:11-87:13	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
87:18-87:22	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
88:6-88:8	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
88:13-88:17	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
89:1-89:3	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
89:8-89:12	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
90:19-90:21	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the		

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
		existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
90:24-91:3	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants.	The use of the term "whale" to describe HCPs that were bribed is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth; Defendants have not articulated any prejudice		
91:4-91:7				
91:10-91:14				
91:15-91:22				
91:25-92:4				
92:5-92:9	92:5-94 401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants. Asking the witness questions about what is not contained in a document is a waste of the jury's time.	The Criminal Enterprise is relevant to the Plaintiff Class's claims because, among other things, it was an undisclosed key factor in Subsys revenue and sales growth for FY14; this goes precisely to the issue of whether Kapoor omitted material information from the 10-K statement and therefore is relevant; Asking the Defendant about whether he disclosed the information the Plaintiff Class has alleged was omitted from the Misstatements goes to the central question before the jury		
92:14-92:18	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants. Asking the witness questions about what is not	See above.		

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
	contained in a document is a waste of the jury's time.			
92:19-92:22	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants. Asking the witness questions about what is not contained in a document is a waste of the jury's time.	See above.		
93:2-93:6	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants. Asking the witness questions about what is not contained in a document is a waste of the jury's time.	See above.		
93:7-93:11	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants. Asking the witness questions about what is not contained in a document is a waste of the jury's time.	See above.		
93:16-93:20	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants. Asking the witness questions about what is not contained in a document is a waste of the jury's time.	See above.		
93:21-93:25	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants. Asking the witness questions about what is not	See above.		

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
	contained in a document is a waste of the jury's time.			
94:5-94:9	401-403: Conduct at issue in criminal trial is not relevant to the claims and is unfairly prejudicial to Defendants. Asking the witness questions about what is not contained in a document is a waste of the jury's time.	See above.		
95:22-95:25				
96:3-96:7				
96:8-96:10				
96:13-96:17				
96:18-96:19				
96:22-97:1				
97:2-97:5				
97:11-97:15				
97:16-98:1				
98:4-98:8				
98:9-98:11				
98:14-98:18				
98:19-98:23				
99:5-99:9				
99:10-99:13				
99:16-99:20				
99:21-100:3				
100:6-100:10				
100:14-100:20				
100:23-101:2				
101:3-101:4				
101:7-101:11				
101:12-101:14				
101:17-101:21				
101:22-102:6				
102:9-102:13				

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
102:14-102:16				
102:19-102:23				
102:24-103:2				
103:5-103:9				
103:10-103:15				
104:6-104:8				
104:11-104:15				
104:16-104:23				
105:1-105:5				
120:14-120:20				
120:23-121:2				
124:1-124:6				
124:10-124:14				
124:17-124:23				
125:2-125:6				
125:7-125:10				
125:14-125:18				
125:19-125:21				
125:25-126:4				
126:16-126:19				
126:24-127:3				
133:19-133:22				
134:1-134:5				
134:12-134:16				
134:19-134:23				
135:1-135:5				
138:2-138:4				
138:6-138:10				
138:11-138:13				
138:16-138:20				
138:21-138:23				
139:3-139:7				
139:8-139:11				
139:14-139:18				

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
139:19-139:22				
140:1-140:5				
140:6-140:9				
140:13-140:17				
140:18-140:20				
140:23-141:2				
141:3-141:6				
141:9-141:13				
143:1-143:4				
143:8-143:12				
143:13-143:15				
143:19-143:23				
144:1-144:6				
144:8-144:12				
144:13-144:15				
144:19-144:23				
144:24-145:3				
145:7-145:11				
145:21-145:23				
146:5-146:9				
146:10-146:14				
146:19-146:23				
147:1-147:4				
147:8-147:12				
147:19-147:23				
148:1-148:5				
149:13-149:16				
149:20-149:24				
150:11-150:16				
150:19-150:23				
150:24-150:25				
151:4-151:8				
151:9-151:10				
151:14-151:18				

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
151:19-151:21				
151:24-152:3				
152:4-152:5				
152:9-152:13				
152:14-152:18				
152:23-153:2				
153:14-154:2	153:14-154:10 401-403: Conduct at issue in criminal trial and regarding a non-party is not relevant to the claims and is unfairly prejudicial to Defendants. 801-802: calls for hearsay	The fact that Insys' former VP of Sales pled guilty to a racketeering conspiracy in connection with his work at the Company is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue; Defendants have not articulated any prejudice		
154:6-154:10	153:14-154:10 401-403: Conduct at issue in criminal trial and regarding a non-party is not relevant to the claims and is unfairly prejudicial to Defendants. 801-802: calls for hearsay	The fact that Insys' former VP of Sales pled guilty to a racketeering conspiracy in connection with his work at the Company is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue; Not hearsay because it is a Statement against the Interests of an Unavailable Declarant (Burlakoff) under FRE 804(d)(3); If hearsay, there is an exception under FRE 803(22); Defendants have not articulated any prejudice		
154:24-155:4	401-403: Conduct at issue in criminal trial and regarding a non-party is not relevant to the claims and is unfairly prejudicial to Defendants.	The fact that Insys' former VP of Sales pled guilty to a racketeering conspiracy in connection with his work at the Company is relevant to Plaintiff Class's claim that		

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
	801-802: calls for hearsay	Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue; Not hearsay because it is a Statement against the Interests of an Unavailable Declarant (Burlakoff) under FRE 804(d)(3); If hearsay, there is an exception under FRE 803(22); Defendants have not articulated any prejudice		
155:9-155:13	401-403: Conduct at issue in criminal trial and regarding a non-party is not relevant to the claims and is unfairly prejudicial to Defendants. 801-802: calls for hearsay	The fact that Insys' former VP of Sales pled guilty to a racketeering conspiracy in connection with his work at the Company is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue; Not hearsay because it is a Statement against the Interests of an Unavailable Declarant (Burlakoff) under FRE 804(d)(3); If hearsay, there is an exception under FRE 803(22); Defendants have not articulated any prejudice		
155:14-155:18	401-403: Conduct at issue in criminal trial and regarding a non-party is not relevant to the claims and is unfairly prejudicial to Defendants. 801-802: calls for hearsay	The fact that Insys' former VP of Sales pled guilty to a racketeering conspiracy in connection with his work at the Company is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue; Not hearsay because it is a Statement against the Interests of an Unavailable Declarant (Burlakoff)		

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
		under FRE 804(d)(3); If hearsay, there is an exception under FRE 803(22); Defendants have not articulated any prejudice		
155:23-156:2	401-403: Conduct at issue in criminal trial and regarding a non-party is not relevant to the claims and is unfairly prejudicial to Defendants. 801-802: calls for hearsay	The fact that Insys' former VP of Sales pled guilty to a racketeering conspiracy in connection with his work at the Company is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue; Not hearsay because it is a Statement against the Interests of an Unavailable Declarant (Burlakoff) under FRE 804(d)(3); If hearsay, there is an exception under FRE 803(22); Defendants have not articulated any prejudice		

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Plaintiff Class's Designations
Testifying Witness: Yu, Xun (Sean)
Date of Testimony: June 20, 2019 (*Di Donato* Matter)

Plaintiff Class's Designations ⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
5:16-5:19				
6:16-6:19				
7:9-7:16				
8:11-8:23	8:16-8:23 relevance, prejudice	The Court has repeatedly determined that topics underlying Mr. Yu's testimony are relevant to the Plaintiff Class's claims, including in the Summary Judgment Order and the Order on the Motions to Strike Russell and Devor. Additionally, certain topics underlying Mr. Yu's testimony, including with respect to the oncology territory and oncology HCPs, are the subject matter underlying Defendants' affirmative designations in, for instance, the deposition of Brian Pipko. Moreover, Defendants should articulate the specific prejudice they believe flows from the use of the Plaintiff Class's affirmative designations to Mr. Yu's deposition transcript at trial. Accordingly, the Plaintiff Class is unable to respond to Defendants' blanket objection to these designations on the basis of relevance and prejudice.		

⁹ Please note that while there are 448 separate designations listed for Mr. Yu, this was necessary to avoid designation the objections lodged by Defendants' counsel during the deposition. These 448 designations amount to just over 2 hours of testimony.

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Plaintiff Class's Designations ⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
13:10-13:21	relevance, prejudice	See above.		
13:23-13:23	relevance, prejudice	See above.		
13:25-13:25	relevance, prejudice	See above.		
14:2-14:2	relevance, prejudice	See above.		
14:4-15:12	relevance, prejudice	See above.		
15:13-15:24	relevance, prejudice	See above.		
18:10-19:17	relevance, prejudice	See above.		
20:12-22:20	relevance, prejudice	See above.		
22:23-22:23	relevance, prejudice	See above.		
22:25-23:6	relevance, prejudice	See above.		
23:8-23:19	relevance, prejudice	See above.		
23:21-24:3	relevance, prejudice	See above.		
24:5-24:5	relevance, prejudice	See above.		
24:7-24:10	relevance, prejudice	See above.		
24:11-24:16	relevance, prejudice	See above.		
24:18-24:18	relevance, prejudice	See above.		
24:20-24:22	relevance, prejudice	See above.		
24:24-24:24	relevance, prejudice	See above.		
25:2-25:7	relevance, prejudice	See above.		
25:9-25:9	relevance, prejudice	See above.		
25:11-25:15	relevance, prejudice	See above.		
25:17-25:21	relevance, prejudice	See above.		
25:23-26:2	relevance, prejudice	See above.		
26:4-26:8	relevance, prejudice	See above.		
26:10-26:13	relevance, prejudice	See above.		
26:15-26:18	relevance, prejudice	See above.		
26:20-26:22	relevance, prejudice	See above.		
26:24-27:2	relevance, prejudice	See above.		
27:4-27:8	relevance, prejudice	See above.		
27:10-27:13	relevance, prejudice	See above.		
27:15-27:21	relevance, prejudice	See above.		
27:23-27:23	relevance, prejudice	See above.		
27:25-28:1	relevance, prejudice	See above.		
28:3-28:3	relevance, prejudice	See above.		

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Plaintiff Class's Designations ⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
28:6-28:7	relevance, prejudice	See above.		
28:9-28:9	relevance, prejudice	See above.		
28:11-28:13	relevance, prejudice	See above.		
28:15-28:15	relevance, prejudice	See above.		
28:17-28:18	relevance, prejudice	See above.		
28:20-28:23	relevance, prejudice	See above.		
28:25-28:25	relevance, prejudice	See above.		
29:2-29:3	relevance, prejudice	See above.		
29:5-29:10	relevance, prejudice	See above.		
29:12-29:20	relevance, prejudice	See above.		
29:22-30:5	relevance, prejudice	See above.		
30:7-30:15	relevance, prejudice	See above.		
30:17-30:24	relevance, prejudice	See above.		
31:1-31:5	relevance, prejudice	See above.		
31:7-31:14	relevance, prejudice	See above.		
31:16-31:20	relevance, prejudice	See above.		
31:22-32:5	relevance, prejudice	See above.		
32:7-32:12	relevance, prejudice	See above.		
32:14-32:20	relevance, prejudice	See above.		
32:22-33:1	relevance, prejudice	See above.		
33:3-33:8	relevance, prejudice	See above.		
33:10-33:14	relevance, prejudice	See above.		
33:16-33:23	relevance, prejudice	See above.		
33:25-34:3	relevance, prejudice	See above.		
34:5-34:9	relevance, prejudice	See above.		
34:11-34:14	relevance, prejudice	See above.		
34:16-34:21	relevance, prejudice	See above.		
34:23-34:25	relevance, prejudice	See above.		
35:2-35:6	relevance, prejudice	See above.		
35:8-35:13	relevance, prejudice	See above.		
35:15-35:18	relevance, prejudice	See above.		
35:20-35:25	relevance, prejudice	See above.		
36:2-36:9	relevance, prejudice	See above.		
36:11-36:15	relevance, prejudice	See above.		

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Plaintiff Class's Designations⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
36:17-36:20	relevance, prejudice	See above.		
36:22-37:4	relevance, prejudice	See above.		
37:6-37:10	relevance, prejudice	See above.		
37:12-37:15	relevance, prejudice	See above.		
37:17-37:21	relevance, prejudice	See above.		
37:23-38:1	relevance, prejudice	See above.		
38:3-38:14	relevance, prejudice	See above.		
38:16-38:19	relevance, prejudice	See above.		
38:22-38:25	relevance, prejudice	See above.		
39:2-39:6	relevance, prejudice	See above.		
39:8-39:13	relevance, prejudice	See above.		
39:15-39:24	relevance, prejudice	See above.		
40:1-40:5	relevance, prejudice	See above.		
40:7-40:10	relevance, prejudice	See above.		
40:12-40:14	relevance, prejudice	See above.		
40:16-40:19	relevance, prejudice	See above.		
40:21-41:1	relevance, prejudice	See above.		
41:3-41:6	relevance, prejudice	See above.		
41:8-41:11	relevance, prejudice	See above.		
41:13-41:15	relevance, prejudice	See above.		
41:17-41:19	relevance, prejudice	See above.		
41:21-41:23	relevance, prejudice	See above.		
41:25-42:2	relevance, prejudice	See above.		
42:4-42:8	relevance, prejudice	See above.		
42:10-42:13	relevance, prejudice	See above.		
42:15-42:18	relevance, prejudice	See above.		
42:20-42:23	relevance, prejudice	See above.		
42:25-43:7	relevance, prejudice	See above.		
43:9-43:13	relevance, prejudice	See above.		
43:16-43:19	relevance, prejudice	See above.		
43:21-43:25	relevance, prejudice	See above.		
44:2-44:5	relevance, prejudice	See above.		
44:7-44:11	relevance, prejudice	See above.		
44:13-44:16	relevance, prejudice	See above.		

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Plaintiff Class's Designations ⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
44:18-44:21	relevance, prejudice	See above.		
44:23-45:1	relevance, prejudice	See above.		
45:3-45:7	relevance, prejudice	See above.		
45:9-45:12	relevance, prejudice	See above.		
45:14-45:17	relevance, prejudice	See above.		
45:19-45:24	relevance, prejudice	See above.		
46:1-46:6	relevance, prejudice	See above.		
57:6-57:13	relevance, prejudice	See above.		
58:2-58:18	relevance, prejudice	See above.		
58:20-58:23	relevance, prejudice	See above.		
58:25-59:7	relevance, prejudice	See above.		
59:9-59:12	relevance, prejudice	See above.		
59:14-59:17	relevance, prejudice	See above.		
59:19-59:22	relevance, prejudice	See above.		
59:24-60:2	relevance, prejudice	See above.		
60:4-60:7	relevance, prejudice	See above.		
60:9-60:12	relevance, prejudice	See above.		
60:14-60:18	relevance, prejudice	See above.		
60:20-60:23	relevance, prejudice	See above.		
60:25-61:4	relevance, prejudice	See above.		
61:6-61:10	relevance, prejudice	See above.		
61:12-61:15	relevance, prejudice	See above.		
61:17-61:21	relevance, prejudice	See above.		
61:23-61:25	relevance, prejudice	See above.		
62:2-62:4	relevance, prejudice	See above.		
62:6-62:8	relevance, prejudice	See above.		
62:10-62:12	relevance, prejudice	See above.		
62:14-62:17	relevance, prejudice	See above.		
62:19-62:24	relevance, prejudice	See above.		
63:1-63:5	relevance, prejudice	See above.		
63:8-63:12	relevance, prejudice	See above.		
63:16-63:19	relevance, prejudice	See above.		
63:21-64:15	relevance, prejudice	See above.		
64:17-65:9	relevance, prejudice	See above.		

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Plaintiff Class's Designations ⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
65:11-65:24	relevance, prejudice	See above.		
66:1-66:3	relevance, prejudice	See above.		
66:5-66:14	relevance, prejudice	See above.		
66:18-66:20	relevance, prejudice	See above.		
67:2-67:21	relevance, prejudice	See above.		
68:12-68:16	relevance, prejudice	See above.		
68:19-69:24	relevance, prejudice	See above.		
70:1-70:16	relevance, prejudice	See above.		
71:11-71:13	relevance, prejudice	See above.		
71:16-71:21	relevance, prejudice	See above.		
71:24-72:6	relevance, prejudice	See above.		
72:8-72:11	relevance, prejudice	See above.		
72:13-72:16	relevance, prejudice	See above.		
72:18-72:22	relevance, prejudice	See above.		
72:25-73:3	relevance, prejudice	See above.		
73:5-73:8	relevance, prejudice	See above.		
73:10-73:14	relevance, prejudice	See above.		
73:16-73:21	relevance, prejudice	See above.		
73:23-74:2	relevance, prejudice	See above.		
74:4-74:8	relevance, prejudice	See above.		
74:10-74:14	relevance, prejudice	See above.		
74:16-74:21	relevance, prejudice	See above.		
74:23-75:4	relevance, prejudice	See above.		
75:7-75:10	relevance, prejudice	See above.		
75:14-76:10	relevance, prejudice	See above.		
76:12-76:25	relevance, prejudice	See above.		
77:2-77:5	relevance, prejudice	See above.		
77:7-77:12	relevance, prejudice	See above.		
77:14-77:17	relevance, prejudice	See above.		
77:19-77:24	relevance, prejudice	See above.		
78:1-78:15	relevance, prejudice	See above.		
78:17-78:22	relevance, prejudice	See above.		
79:2-79:14	relevance, prejudice	See above.		
86:17-86:19	relevance, prejudice	See above.		

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Plaintiff Class's Designations ⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
86:23-87:16	relevance, prejudice	See above.		
87:18-87:18	relevance, prejudice	See above.		
87:20-87:21	relevance, prejudice	See above.		
87:25-88:17	relevance, prejudice	See above.		
88:19-88:23	relevance, prejudice	See above.		
88:25-89:3	relevance, prejudice	See above.		
89:5-89:12	relevance, prejudice	See above.		
89:14-89:16	relevance, prejudice	See above.		
89:18-89:20	relevance, prejudice	See above.		
89:22-90:1	relevance, prejudice	See above.		
90:3-90:6	relevance, prejudice	See above.		
90:8-90:8	relevance, prejudice	See above.		
90:10-90:11	relevance, prejudice	See above.		
90:15-91:6	relevance, prejudice	See above.		
91:8-91:18	relevance, prejudice	See above.		
91:20-91:24	relevance, prejudice	See above.		
92:1-92:3	relevance, prejudice	See above.		
92:5-92:7	relevance, prejudice	See above.		
92:9-92:12	relevance, prejudice	See above.		
92:14-92:18	relevance, prejudice	See above.		
92:20-92:23	relevance, prejudice	See above.		
93:1-93:1	relevance, prejudice	See above.		
93:3-93:4	relevance, prejudice	See above.		
93:11-94:6	relevance, prejudice	See above.		
94:8-94:14	relevance, prejudice	See above.		
94:16-94:20	relevance, prejudice	See above.		
94:24-95:1	relevance, prejudice	See above.		
95:15-96:4	relevance, prejudice	See above.		
96:9-96:9	relevance, prejudice	See above.		
96:11-96:13	relevance, prejudice	See above.		
96:15-96:21	relevance, prejudice	See above.		
96:24-97:4	relevance, prejudice	See above.		
97:6-97:10	relevance, prejudice	See above.		
97:13-97:18	relevance, prejudice	See above.		

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Plaintiff Class's Designations⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
97:21-98:9	relevance, prejudice	See above.		
98:11-98:11	relevance, prejudice	See above.		
98:13-98:14	relevance, prejudice	See above.		
98:18-99:16	relevance, prejudice	See above.		
99:18-99:24	relevance, prejudice	See above.		
100:1-100:7	relevance, prejudice	See above.		
100:10-100:13	relevance, prejudice	See above.		
100:15-100:15	relevance, prejudice	See above.		
100:17-100:20	relevance, prejudice	See above.		
100:25-101:10	relevance, prejudice	See above.		
101:12-101:16	relevance, prejudice	See above.		
101:19-101:25	relevance, prejudice	See above.		
102:2-102:6	relevance, prejudice	See above.		
102:8-102:8	relevance, prejudice	See above.		
102:10-102:11	relevance, prejudice	See above.		
102:15-103:20	relevance, prejudice	See above.		
103:22-104:9	relevance, prejudice	See above.		
104:11-104:12	relevance, prejudice	See above.		
104:17-105:1	relevance, prejudice	See above.		
105:3-105:7	relevance, prejudice	See above.		
105:10-105:13	relevance, prejudice	See above.		
105:15-105:20	relevance, prejudice	See above.		
105:23-105:23	relevance, prejudice	See above.		
105:24-106:1	relevance, prejudice	See above.		
106:14-107:5	relevance, prejudice	See above.		
107:7-107:10	relevance, prejudice	See above.		
107:12-107:15	relevance, prejudice	See above.		
107:17-107:20	relevance, prejudice	See above.		
107:22-108:1	relevance, prejudice	See above.		
108:3-108:10	relevance, prejudice	See above.		
108:12-108:16	relevance, prejudice	See above.		
108:19-108:22	relevance, prejudice	See above.		
108:25-109:3	relevance, prejudice	See above.		
109:6-109:9	relevance, prejudice	See above.		

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Plaintiff Class's Designations ⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
109:11-109:14	relevance, prejudice	See above.		
109:17-109:19	relevance, prejudice	See above.		
109:21-109:24	relevance, prejudice	See above.		
110:1-110:4	relevance, prejudice	See above.		
110:6-110:9	relevance, prejudice	See above.		
110:11-110:11	relevance, prejudice	See above.		
110:12-110:14	relevance, prejudice	See above.		
110:19-111:5	relevance, prejudice	See above.		
111:7-111:10	relevance, prejudice	See above.		
111:13-111:16	relevance, prejudice	See above.		
111:19-111:22	relevance, prejudice	See above.		
111:25-112:3	relevance, prejudice	See above.		
112:5-112:9	relevance, prejudice	See above.		
112:11-112:14	relevance, prejudice	See above.		
112:16-112:19	relevance, prejudice	See above.		
112:21-112:24	relevance, prejudice	See above.		
113:1-113:4	relevance, prejudice	See above.		
113:6-113:10	relevance, prejudice	See above.		
113:12-113:15	relevance, prejudice	See above.		
113:17-113:20	relevance, prejudice	See above.		
113:22-114:1	relevance, prejudice	See above.		
114:3-114:6	relevance, prejudice	See above.		
114:8-114:11	relevance, prejudice	See above.		
114:13-114:16	relevance, prejudice	See above.		
114:19-114:19	relevance, prejudice	See above.		
114:21-114:23	relevance, prejudice	See above.		
115:1-115:6	relevance, prejudice	See above.		
115:8-115:12	relevance, prejudice	See above.		
115:14-115:14	relevance, prejudice	See above.		
115:16-115:17	relevance, prejudice	See above.		
115:22-116:3	relevance, prejudice	See above.		
116:10-116:16	relevance, prejudice	See above.		
116:21-116:22	relevance, prejudice	See above.		
116:24-117:6	relevance, prejudice	See above.		

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Plaintiff Class's Designations ⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
117:8-117:12	relevance, prejudice	See above.		
117:16-117:23	relevance, prejudice	See above.		
118:1-118:8	relevance, prejudice	See above.		
118:11-118:19	relevance, prejudice	See above.		
118:22-119:1	relevance, prejudice	See above.		
119:4-119:8	relevance, prejudice	See above.		
119:14-119:16	relevance, prejudice	See above.		
119:18-119:23	relevance, prejudice	See above.		
119:25-120:5	relevance, prejudice	See above.		
120:7-120:14	relevance, prejudice	See above.		
120:17-120:23	relevance, prejudice	See above.		
121:2-121:15	relevance, prejudice	See above.		
121:18-121:23	relevance, prejudice	See above.		
121:25-122:4	relevance, prejudice	See above.		
122:7-122:11	relevance, prejudice	See above.		
122:14-122:19	relevance, prejudice	See above.		
122:21-122:24	relevance, prejudice	See above.		
123:1-123:5	relevance, prejudice	See above.		
123:8-123:12	relevance, prejudice	See above.		
123:15-123:19	relevance, prejudice	See above.		
123:21-123:21	relevance, prejudice	See above.		
124:4-124:5	relevance, prejudice	See above.		
124:7-124:10	relevance, prejudice	See above.		
124:12-124:15	relevance, prejudice	See above.		
124:17-124:19	relevance, prejudice	See above.		
124:21-124:24	relevance, prejudice	See above.		
125:1-125:01	relevance, prejudice	See above.		
125:12-125:15	relevance, prejudice	See above.		
125:19-126:2	relevance, prejudice	See above.		
126:4-126:14	relevance, prejudice	See above.		
126:16-127:2	relevance, prejudice	See above.		
127:4-127:9	relevance, prejudice	See above.		
127:11-127:17	relevance, prejudice	See above.		
127:19-127:23	relevance, prejudice	See above.		

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Plaintiff Class's Designations ⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
127:25-128:3	relevance, prejudice	See above.		
128:5-128:8	relevance, prejudice	See above.		
128:10-129:7	relevance, prejudice	See above.		
129:9-129:9	relevance, prejudice	See above.		
129:11-129:15	relevance, prejudice	See above.		
129:25-130:5	relevance, prejudice	See above.		
130:11-130:24	relevance, prejudice	See above.		
131:1-131:5	relevance, prejudice	See above.		
131:7-131:10	relevance, prejudice	See above.		
131:12-131:15	relevance, prejudice	See above.		
131:17-131:24	relevance, prejudice	See above.		
132:1-132:4	relevance, prejudice	See above.		
132:6-132:9	relevance, prejudice	See above.		
132:11-132:15	relevance, prejudice	See above.		
132:17-132:20	relevance, prejudice	See above.		
132:22-133:15	relevance, prejudice	See above.		
133:17-133:20	relevance, prejudice	See above.		
133:22-133:25	relevance, prejudice	See above.		
134:2-134:5	relevance, prejudice	See above.		
134:7-134:14	relevance, prejudice	See above.		
134:16-134:20	relevance, prejudice	See above.		
134:22-134:25	relevance, prejudice	See above.		
135:3-135:5	relevance, prejudice	See above.		
135:7-135:10	relevance, prejudice	See above.		
135:13-135:16	relevance, prejudice	See above.		
135:18-135:21	relevance, prejudice	See above.		
135:23-136:1	relevance, prejudice	See above.		
136:3-136:6	relevance, prejudice	See above.		
136:8-136:13	relevance, prejudice	See above.		
136:16-136:16	relevance, prejudice	See above.		
136:18-136:21	relevance, prejudice	See above.		
136:24-137:4	relevance, prejudice	See above.		
137:6-137:10	relevance, prejudice	See above.		
137:12-137:15	relevance, prejudice	See above.		

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Plaintiff Class's Designations ⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
137:17-137:21	relevance, prejudice	See above.		
137:24-138:4	relevance, prejudice	See above.		
138:6-138:11	relevance, prejudice	See above.		
138:13-138:19	relevance, prejudice	See above.		
138:22-139:1	relevance, prejudice	See above.		
139:4-139:9	relevance, prejudice	See above.		
139:11-139:14	relevance, prejudice	See above.		
139:17-139:23	relevance, prejudice	See above.		
140:1-140:6	relevance, prejudice	See above.		
140:8-140:12	relevance, prejudice	See above.		
140:14-140:17	relevance, prejudice	See above.		
140:19-140:23	relevance, prejudice	See above.		
141:1-141:4	relevance, prejudice	See above.		
141:6-141:10	relevance, prejudice	See above.		
141:13-141:16	relevance, prejudice	See above.		
141:18-141:23	relevance, prejudice	See above.		
142:1-142:5	relevance, prejudice	See above.		
142:8-142:8	relevance, prejudice	See above.		
142:10-142:11	relevance, prejudice	See above.		
143:6-143:24	relevance, prejudice	See above.		
144:1-144:7	relevance, prejudice	See above.		
144:9-144:13	relevance, prejudice	See above.		
144:15-144:21	relevance, prejudice	See above.		
144:24-144:24	relevance, prejudice	See above.		
145:2-145:4	relevance, prejudice	See above.		
145:6-145:6	relevance, prejudice	See above.		
145:12-145:13	relevance, prejudice	See above.		
145:16-145:21	relevance, prejudice	See above.		
145:24-146:6	relevance, prejudice	See above.		
146:9-146:13	relevance, prejudice	See above.		
146:15-146:18	relevance, prejudice	See above.		
146:20-146:23	relevance, prejudice	See above.		
146:25-147:3	relevance, prejudice	See above.		
147:5-147:7	relevance, prejudice	See above.		

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Plaintiff Class's Designations ⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
147:9-147:13	relevance, prejudice	See above.		
147:16-147:18	relevance, prejudice	See above.		
147:20-148:2	relevance, prejudice	See above.		
148:5-148:10	relevance, prejudice	See above.		
148:13-148:15	relevance, prejudice	See above.		
148:25-149:17	relevance, prejudice	See above.		
149:25-149:25	relevance, prejudice	See above.		
150:5-150:5	relevance, prejudice	See above.		
150:7-150:10	relevance, prejudice	See above.		
150:12-150:18	relevance, prejudice	See above.		
150:20-150:22	relevance, prejudice	See above.		
150:24-151:4	relevance, prejudice	See above.		
151:7-151:9	relevance, prejudice	See above.		
151:12-151:20	relevance, prejudice	See above.		
151:23-152:2	relevance, prejudice	See above.		
152:4-152:10	relevance, prejudice	See above.		
152:12-152:12	relevance, prejudice	See above.		
152:23-153:2	relevance, prejudice	See above.		
153:6-153:16	relevance, prejudice	See above.		
153:18-153:21	relevance, prejudice	See above.		
153:23-154:2	relevance, prejudice	See above.		
154:5-154:9	relevance, prejudice	See above.		
154:12-154:15	relevance, prejudice	See above.		
154:17-154:22	relevance, prejudice	See above.		
154:25-155:3	relevance, prejudice	See above.		
155:6-155:10	relevance, prejudice	See above.		
155:12-155:16	relevance, prejudice	See above.		
155:18-155:22	relevance, prejudice	See above.		
156:2-156:3	relevance, prejudice	See above.		
156:5-156:7	relevance, prejudice	See above.		
156:9-156:11	relevance, prejudice	See above.		
156:13-156:15	relevance, prejudice	See above.		
156:17-156:19	relevance, prejudice	See above.		
156:21-156:24	relevance, prejudice	See above.		

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Plaintiff Class's Designations ⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
157:1-157:6	relevance, prejudice	See above.		
157:8-157:12	relevance, prejudice	See above.		
157:15-157:18	relevance, prejudice	See above.		
157:21-157:24	relevance, prejudice	See above.		
158:2-158:6	relevance, prejudice	See above.		
158:8-158:13	relevance, prejudice	See above.		
158:15-158:19	relevance, prejudice	See above.		
158:22-158:25	relevance, prejudice	See above.		
159:2-159:6	relevance, prejudice	See above.		
159:8-159:11	relevance, prejudice	See above.		
159:14-159:16	relevance, prejudice	See above.		
159:18-159:21	relevance, prejudice	See above.		
159:23-160:2	relevance, prejudice	See above.		
160:5-160:12	relevance, prejudice	See above.		
160:15-160:20	relevance, prejudice	See above.		
160:23-161:2	relevance, prejudice	See above.		
161:5-161:8	relevance, prejudice	See above.		
161:10-161:14	relevance, prejudice	See above.		
161:16-161:19	relevance, prejudice	See above.		
161:24-161:24	relevance, prejudice	See above.		
162:2-162:5	relevance, prejudice	See above.		
162:8-162:11	relevance, prejudice	See above.		
162:13-162:18	relevance, prejudice	See above.		
162:21-163:1	relevance, prejudice	See above.		
163:3-163:8	relevance, prejudice	See above.		
163:11-163:14	relevance, prejudice	See above.		
163:17-163:20	relevance, prejudice	See above.		
163:23-164:2	relevance, prejudice	See above.		
164:5-164:10	relevance, prejudice	See above.		
164:13-164:18	relevance, prejudice	See above.		
164:21-165:1	relevance, prejudice	See above.		
165:3-165:8	relevance, prejudice	See above.		
165:10-165:17	relevance, prejudice	See above.		
165:20-166:4	relevance, prejudice	See above.		

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Plaintiff Class's Designations⁹	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
166:7-166:7	relevance, prejudice	See above.		
166:16-168:4	relevance, prejudice	See above.		

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Plaintiff Class's Designations
Testifying Witness: Burlakoff, Alex
Date of Testimony: June 21, 2019 (*Di Donato* Matter)

Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
5:25-6:5	relevance, prejudice	The Court has repeatedly determined that topics underlying Mr. Burlakoff's testimony are relevant to the Plaintiff Class's claims, including in the Summary Judgment Order and the Order on the Motions to Strike Russell and Devor. Additionally, certain topics underlying Mr. Burlakoff's testimony, including with respect to the oncology territory and oncology HCPs, are the subject matter underlying Defendants' affirmative designations in, for instance, the deposition of Brian Pipko. Moreover, Defendants should articulate the specific prejudice they believe flows from the use of the Plaintiff Class's affirmative designations to Mr. Burlakoff's deposition transcript at trial. Accordingly, the Plaintiff Class is unable to respond to Defendants' blanket objection to these designations on the basis of relevance and prejudice.		
6:15-6:17	relevance, prejudice	See above.		
6:23-7:14	relevance, prejudice	See above.		
9:3-9:11	relevance, prejudice	See above.		
9:12-9:23	relevance, prejudice	See above.		
9:24-10:1	relevance, prejudice	See above.		

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
10:2-10:9	relevance, prejudice	See above.		
10:25-11:15	relevance, prejudice	See above.		
12:19-13:19	relevance, prejudice	See above.		
13:20-14:2	relevance, prejudice	See above.		
14:20-15:6	relevance, prejudice	See above.		
15:25-16:4	relevance, prejudice	See above.		
16:8-16:11	relevance, prejudice	See above.		
17:2-17:6	relevance, prejudice	See above.		
17:10-17:13	relevance, prejudice	See above.		
17:16-17:22	relevance, prejudice	See above.		
18:1-18:2	relevance, prejudice	See above.		
18:3-18:8	relevance, prejudice	See above.		
18:11-18:11	relevance, prejudice	See above.		
18:22-21:4	relevance, prejudice	See above.		
21:8-22:5	relevance, prejudice	See above.		
22:6-23:6	relevance, prejudice	See above.		
23:10-23:20	relevance, prejudice	See above.		
24:3-24:6	relevance, prejudice	See above.		
24:9-24:16	relevance, prejudice	See above.		
24:21-25:18	relevance, prejudice	See above.		
26:3-28:3	relevance, prejudice	See above.		
28:7-28:13	relevance, prejudice	See above.		
28:17-29:9	relevance, prejudice	See above.		
29:13-29:21	relevance, prejudice	See above.		
29:25-29:25	relevance, prejudice	See above.		
30:9-30:14	relevance, prejudice	See above.		
30:15-30:19	relevance, prejudice	See above.		
30:23-30:24	relevance, prejudice	See above.		
30:25-33:14	relevance, prejudice	See above.		
35:8-35:22	relevance, prejudice	See above.		
38:15-38:19	relevance, prejudice	See above.		
40:1-40:10	relevance, prejudice	See above.		
41:9-41:15	relevance, prejudice	See above.		
41:24-42:5	relevance, prejudice	See above.		

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations	Plaintiff Class's Objections to Defendants' Counter Designations
42:6-43:22	relevance, prejudice	See above.		
44:13-45:3	relevance, prejudice	See above.		
47:3-47:22	relevance, prejudice	See above.		
47:23-48:1	relevance, prejudice	See above.		
48:5-48:20	relevance, prejudice	See above.		
50:20-51:15	relevance, prejudice	See above.		
54:23-54:24	relevance, prejudice	See above.		
56:9-56:12	relevance, prejudice	See above.		
56:16-58:7	relevance, prejudice	See above.		
58:9-58:13	relevance, prejudice	See above.		
58:17-59:1	relevance, prejudice	See above.		
59:14-60:8	relevance, prejudice	See above.		

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Plaintiff Class's Designations
Testifying Witness: Babich, Michael
Date of Testimony: June 21, 2019 (*Di Donato* Matter)

Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ¹⁰	Plaintiff Class's Objections to Defendants' Counter Designations	Defendants' Responses to Plaintiff Class's Objections
11:18-12:10					
12:18-13:3					
13:11-13:24					
14:19-15:21					
16:14-17:8					
18:6-19:13					
20:2-20:12					
21:14-22:4					
22:16-23:7					
23:21-24:5					
24:9-24:22					
25:13-25:16	25:16-27:7 403: prejudice, the cooperation agreement and plea of Mr. Babich related to charges distinct from the allegations in this matter and are unfairly prejudicial to Defendants.	The charges are not distinct from the allegations in this matter – the Plaintiff Class asserts that Babich violated Section 10(b) by failing to disclose the Criminal Enterprise to which he pled guilty was a key factor in Insys' FY14 sales and revenue growth. Given that, and the fact that Babich admitted these same facts <i>in this case</i> , the relevance far outweighs any prejudice			
25:20-25:22	25:16-27:7 403: prejudice, the cooperation agreement and	See above.			

¹⁰ These designations have been identified as for “completeness” pursuant to Fed. R. Evid. 106.

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ¹⁰	Plaintiff Class's Objections to Defendants' Counter Designations	Defendants' Responses to Plaintiff Class's Objections
	plea of Mr. Babich related to charges distinct from the allegations in this matter and are unfairly prejudicial to Defendants.				
25:23-26:3	25:16-27:7 403: prejudice, the cooperation agreement and plea of Mr. Babich related to charges distinct from the allegations in this matter and are unfairly prejudicial to Defendants.	See above.			
26:4-27:7	25:16-27:7 403: prejudice, the cooperation agreement and plea of Mr. Babich related to charges distinct from the allegations in this matter and are unfairly prejudicial to Defendants.	See above.			
27:10-28:20					
28:24-28:24					
29:12-30:2					
30:24-31:10					
31:20-31:22					
31:25-31:25					
32:1-32:6	32:1-34:3 601, 602: foundation, speculation as to what Kapoor knew. Vagueness as to time.	Foundation is based on the exhibit (which itself was a document to which Babich did not object to on any of these bases); Not speculation because Babich explained how he knew; Testimony is based on Babich's personal			

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ¹⁰	Plaintiff Class's Objections to Defendants' Counter Designations	Defendants' Responses to Plaintiff Class's Objections
		knowledge; Time period was clarified on the record			
33:13-35:7	33:13-34:3 601, 602: foundation, speculation and lack of personal knowledge as to what Kapoor knew. Vagueness as to time.	Foundation is based on the exhibit (which itself was a document to which Babich did not object to on any of these bases); Not speculation because Babich explained how he knew; Testimony is based on Babich's personal knowledge; Time period was clarified on the record			
36:9-36:13	36:9-36:18 601, 602: foundation, speculation and lack of personal knowledge as to what Kapoor knew.	Foundation is based on the exhibit (which itself was a document to which Babich did not object to on any of these bases); Not speculation because Babich explained how he knew; Testimony is based on Babich's personal knowledge from his attendance at 8:30 am meetings			
36:16-36:18	36:9-36:18 601, 602: foundation, speculation and lack of personal knowledge as to what Kapoor knew.	Foundation is based on the exhibit (which itself was a document to which Babich did not object to on any of these bases); Not speculation because Babich explained how he knew; Testimony is based on Babich's personal knowledge from his attendance at 8:30 am meetings			
36:19-37:11					
37:18-39:4					

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ¹⁰	Plaintiff Class's Objections to Defendants' Counter Designations	Defendants' Responses to Plaintiff Class's Objections
39:7-39:07					
39:8-39:11					
39:14-40:2					
40:12-40:13					
40:16-40:23					
40:24-41:7	41:7-42:10 601, 602: foundation, speculation and lack of personal knowledge as to what Kapoor knew.	Foundation is based on the exhibit (which itself was a document to which Babich did not object to on any of these bases); Not speculation because Babich explained how he knew; Testimony is based on Babich's personal knowledge			
41:10-41:10	601, 602: foundation, speculation and lack of personal knowledge as to what Kapoor knew.	Foundation is based on the exhibit (which itself was a document to which Babich did not object to on any of these bases); Not speculation because Babich explained how he knew; Testimony is based on Babich's personal knowledge			
41:11-42:10	601, 602: foundation, speculation and lack of personal knowledge as to what Kapoor knew.	Foundation is based on the exhibit (which itself was a document to which Babich did not object to on any of these bases); Not speculation because Babich explained how he knew; Testimony is based on Babich's personal knowledge			
42:16-43:3					
43:18-44:6					
45:13-45:14					

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ¹⁰	Plaintiff Class's Objections to Defendants' Counter Designations	Defendants' Responses to Plaintiff Class's Objections
45:16-46:18					
51:11-51:20					
51:24-52:3					
53:12-55:18			55:19-56:5	De-designate 55:19-22 as it includes a question that was not answered; no objection to 55:23-56:5 for completeness MIL #3 ¹¹	
56:6-56:25	55:6-68:8 401-403: relevance, prejudice, as sales incentive plan and its approval are not relevant to the claims and is unfairly prejudicial to Defendants.	The charges are not distinct from the allegations in this matter – the Plaintiff Class asserts that Babich violated Section 10(b) by failing to disclose the Criminal Enterprise to which he pled guilty was a key factor in Insys' FY14 sales and revenue growth. Given that, and the fact that Babich admitted these same facts <i>in this case</i> , the relevance far outweighs any prejudice			
57:1-57:16	55:6-68:8 401-403: relevance, prejudice, as increases in speaker fees and tracking return on investment are not relevant to the claims and is unfairly prejudicial to Defendants.	See above response to 56:6-25. Tracking ROI is how Defendants knew if the doctors they bribed were prescribing Subsys			

¹¹ “TP5” refers to the Plaintiff Class’s forthcoming motion in limine to preclude the introduction of evidence or argument concerning issues upon which Defendant Kapoor obstructed discovery in this Action by invoking his Fifth Amendment right against self-incrimination. Because Defendants jointly designated testimony, the Plaintiff Class has included this objection for every designation until such time as the Defendants’ clarify whether Defendant Kapoor intends to introduce this testimony and for what purpose.

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ¹⁰	Plaintiff Class's Objections to Defendants' Counter Designations	Defendants' Responses to Plaintiff Class's Objections
57:20-61:8	55:6-68:8 401-403: relevance, prejudice, as tracking return on investment on speaker program is not relevant to the claims and is unfairly prejudicial to Defendants.	See above response to 56:6-25. Tracking ROI is how Defendants knew if the doctors they bribed were prescribing Subsys.			
63:9-63:23	55:6-68:8 401-403: relevance, prejudice, as entry into direct shipping contract is not relevant to the claims and is unfairly prejudicial to Defendants.	See above response to 56:6-25. Additionally, direct shipping contract was another way to bribe doctors.			
65:17-67:3	55:6-68:8 401-403: relevance, prejudice, as __ is not relevant to the claims and is unfairly prejudicial to Defendants.	See above response to 56:6-25.			
67:13-68:3	55:6-68:8 401-403: relevance, prejudice, as sale of product to particular pharmacy and other products sold by pharmacy are not relevant to the claims and is unfairly prejudicial to Defendants.	See above response to 56:6-25. Additionally, direct shipping contract was another way to bribe doctors.			
68:4-68:18	55:6-68:8 401-403: relevance, prejudice, budget for speaker program and who had authority to increase are not relevant to the claims and is unfairly prejudicial to Defendants.	See above response to 56:6-25. Defendants bribed doctors through the speaker program.			

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ¹⁰	Plaintiff Class's Objections to Defendants' Counter Designations	Defendants' Responses to Plaintiff Class's Objections
73:1-74:6	66:24-87:13 401-403: relevance, prejudice, as use of term "whales" and meaning of term are not relevant to the claims and is unfairly prejudicial to Defendants.	See above response to 56:6-25. Whales were the doctors that had been or were targeted for bribes.			
74:9-74:14	66:24-87:13 401-403: relevance, prejudice, as use of term "whales", who used term, and meaning of term are is not relevant to the claims and is unfairly prejudicial to Defendants.	See above response to 56:6-25. Whales were the doctors that had been or were targeted for bribes.			
74:22-75:8	66:24-87:13 401-403: relevance, prejudice, as testimony from Boston criminal trial and relationship between honoraria and what doctors did are not relevant to the claims and is unfairly prejudicial to Defendants.	See above response to 56:6-25. Bribing doctors through the speaker program was an essential element of the Criminal Enterprise that drove FY14 sales and revenue growth.			
75:18-76:12	76:11-76:12 601: foundation, speculation as to what other people in meeting would know; AND 66:24-87:13 401-403: relevance, prejudice, as whether Dr. Awerbach was a "whale" and whether such was discussed are not relevant to the claims and is unfairly prejudicial to Defendants.	Foundation is based on prior testimony regarding Awerbuch and "whales"; Testimony is based on Babich's personal knowledge; Testimony is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue			

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ¹⁰	Plaintiff Class's Objections to Defendants' Counter Designations	Defendants' Responses to Plaintiff Class's Objections
76:19-77:25	76:11-76:12 601: foundation, speculation as to what other people in meeting would know; AND 66:24-87:13 401-403: relevance, prejudice, as whether or not Awerbach or Madison were whales is not relevant to the claims and is unfairly prejudicial to Defendants.	Foundation is based on prior testimony regarding Awerbuch and "whales"; Testimony is based on Babich's personal knowledge; Testimony is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue			
80:21-81:14	66:24-87:13 401-403: relevance, prejudice, as Dr. Awerbach's conduct is not relevant to the claims and is unfairly prejudicial to Defendants.	Awerbuch admitted to receiving bribes to prescribe Subsys. Testimony is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue			
81:16-82:20	66:24-87:13 401-403: relevance, prejudice, as as Dr. Awerbach's conduct is not relevant to the claims and is unfairly prejudicial to Defendants.	Awerbuch admitted to receiving bribes to prescribe Subsys. Testimony is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue			
84:13-84:16	66:24-87:13 401-403: relevance, prejudice, as any criminal conduct engaged in by Awerbach or Rosenberg, whether particular doctors	Awerbuch admitted to receiving bribes to prescribe Subsys. Testimony is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the			

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ¹⁰	Plaintiff Class's Objections to Defendants' Counter Designations	Defendants' Responses to Plaintiff Class's Objections
	were referred to as “whales”, and when knowledge was gained of various indictments are not relevant to the claims and is unfairly prejudicial to Defendants.	criminal fraud on revenue growth from the statements at issue			
86:7-86:9	66:24-87:13 401-403: relevance, prejudice, as whether Somerville was referred to or considered a “whale” is not relevant to the claims and is unfairly prejudicial to Defendants.	Sommerville was one of the bribed HCPs. Testimony is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue			
86:11-86:22	401-403: relevance, prejudice, as testimony in Boston criminal trial and whether whales were believed to have kept business afloat are not relevant to the claims and is unfairly prejudicial to Defendants. 601, 602: Personal knowledge/speculation as to what Kapoor knew.	Whales are bribed HCPs or targets for bribes. Testimony is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue			
86:25-87:13	66:24-87:13 401-403: relevance, prejudice, as testimony in Boston criminal trial, how the term “whales” was used or were believed to have kept business afloat, and impact of number of doctors accounting for percentages of sales are not relevant to the claims and	Whales are bribed HCPs or targets for bribes. Testimony is relevant to Plaintiff Class's claim that Defendants omitted the existence and impact of the criminal fraud on revenue growth from the statements at issue			

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ¹⁰	Plaintiff Class's Objections to Defendants' Counter Designations	Defendants' Responses to Plaintiff Class's Objections
	is unfairly prejudicial to Defendants.				
88:2-88:12					
89:5-91:8					
94:4-94:8	401: relevance, as potential content of any possible SEC filings is not relevant to the claims.	Admission that the bribery was not disclosed to investors is relevant to determining whether Babich violated 10(b) by failing to disclose that the Criminal Enterprise was a key factor in Insys' FY14 sales and revenue growth.			
97:6-97:20					
98:12-99:4					
99:7-99:18					
100:25-101:3					
101:7-101:8					
101:9-101:12					
101:17-101:18					
101:19-102:4					
102:12-102:14					
103:3-103:8					
103:13-104:5					
107:21-108:24					
109:2-109:9					
109:10-109:11					
109:23-110:1					
110:12-110:18					
111:9-112:5					
112:11-112:12					
112:13-112:15					
112:18-112:19					
112:20-112:24					
113:3-113:4					
132:17-133:7					

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Plaintiff Class's Designations	Defendants' Objections	Plaintiff Class's Responses to Defendants' Objections	Defendants' Counter Designations ¹⁰	Plaintiff Class's Objections to Defendants' Counter Designations	Defendants' Responses to Plaintiff Class's Objections
136:19-137:4					
137:9-137:10					
155:10-156:25					
157:2-157:3					
181:15-181:22					
182:3-182:15					
182:17-183:10					
184:6-185:14					
186:20-187:1					
187:4-187:04					
189:17-192:1					

Defendants' Designations
Testifying Witness: Babich, Michael
Date of Testimony: June 21, 2019 (*Di Donato* Matter)

Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations ¹²	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
8:23-24				
10:12-13:24	106: Incomplete (designate 9:25-10:11 per FRE 106) 401, 402: Preparation for deposition & current employment status not relevant to claims or defenses (10:12-11:11); Kapoor paying for his MBA irrelevant (12:11-17) 601, 602: Lacks personal knowledge (13:4-10)	8:5-12 10:2-11		

¹² In addition to the counter designations specifically set forth in this column, the Plaintiff Class identifies as counter designations testimony given by Mr. Babich that the Plaintiff Class has affirmatively designated in the materials provided to counsel for Defendants on May 22, 2020 as updated, if applicable, on May 29, 2020.

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations ¹²	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
	801, 802: Hearsay if used by Babich (hereafter "Hearsay—Babich") MIL #3 (12:11-17)			
15:6-9	Hearsay—Babich			
15:10-17:21	106: Incomplete (designate 17:22-18:2 per FRE 106) 601, 602: Lacks personal knowledge (15:22-16:3, 17:9-19) Nonresponsive testimony at 17:9-19 Hearsay—Babich	17:22-18:2		
35:4-11	401, 402, 403: Baker not relevant to the claims or defenses currently set for trial (35:8-11) Hearsay—Babich			
35:14-18	401, 402, 403: Baker not relevant to claims or defenses currently set for trial Hearsay—Babich			
36:19-37:13	401, 402: Neither a question nor a responsive answer (37:12-13) Hearsay—Babich			
37:18-38:22	801, 802: Hearsay (38:16-22) Hearsay—Babich			
39:8-12	Hearsay—Babich			
39:14-40:2	Hearsay—Babich			
42:16-43:14	401, 402, 403: Baker not relevant to claims or defenses currently set for trial (43:13-14) Hearsay—Babich			
43:17-44:16	401, 402, 403: Baker not relevant to claims or defenses currently set for trial (43:17) Hearsay—Babich MIL #3			

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations ¹²	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
44:22-25	601, 602: Speculation, Lacks personal knowledge 401, 402, 403: Inconsistent with prior sworn statements; Reliance on counsel Hearsay—Babich MIL #3			
45:1-3	Hearsay—Babich			
45:8-12	Nonresponsive: Preceding question concerned IRC practices, which answer does not address Hearsay—Babich			
45:13-14	Hearsay—Babich			
45:16-46:8	801, 802: Hearsay (45:21-46:2) Hearsay—Babich	44:9-15 47:26-48:4 50:16-22 51:25-52:3		
49:7-9	106: Incomplete (designate 47:20:48:4 per FRE 106) Foundation Hearsay—Babich	44:9-15 47:26-48:4 50:16-22 51:25-52:3		
49:12-23	106: Incomplete (designate 50:16-22 per FRE 106 401, 402, 403: Inconsistent with prior sworn statements (49:12-15); Reliance on counsel (49:16-23) Foundation (49:12-15) Hearsay—Babich	44:9-15 47:26-48:4 50:16-22 51:25-52:3 66:8		
66:9-23	Hearsay—Babich			
99:7-100:2	401, 402, 403: (99:19-100:2 Does not contain testimony) Hearsay—Babich			
100:25-101:3	106: Incomplete (designate 100:23-24 per FRE 106) Hearsay—Babich	100:23-24		

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations ¹²	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
101:7-12	Hearsay—Babich			
101:17-102:4	Hearsay—Babich			
102:12-14	Hearsay—Babich			
126:8-127:18	601, 602: Speculation (126:12-15) Foundation Nonresponsive: question concerned types of documents, and no responsive answer was given (126:18-127:8) MIL #1¹³: Efforts not in place by FY14 (126:18-127:8) Hearsay—Babich			
127:21-128:2	401, 402, 403: Testimony consists of non-responsive narrative that is confusing, misleading, and prejudicial; 601, 602: Lacks personal knowledge (127:24-128:2) MIL #1: Efforts not in place by FY14 (126:18-127:8) (127:21-23) Hearsay—Babich			
128:10-129:4	401, 402, 403: Testimony consists of non-responsive narrative that is confusing, misleading, and prejudicial; Hearsay—Babich MIL #1: Efforts not in place by FY14 (128:18-21) MIL #3			

¹³ The Plaintiff Class seeks an order precluding the introduction of evidence and testimony regarding putative or aspirational oncological efforts that were not in place in FY14, and Subsys sales and revenue generated by the “oncology HCP” specialty (which was artificially inflated by the Factor) in FY15 under Fed. R. Evid. 401, 402, and 403. Evidence subject to this MIL is identified here by the inclusion of “MIL #1” in the Plaintiff Class’s Objections.

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations ¹²	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
129:7-130:20	601, 602: Speculation (129:17-130:7) Nonresponsive (129:14-16; 130:12-20) Narrative (130:12-20) 801, 802: Hearsay (130:12-20) Hearsay—Babich MIL #1: Efforts not in place by FY14 (129:14-16, 130:8-20) MIL #3			
144:8-11	Hearsay—Babich MIL #3			
144:14-146:12	Foundation 601, 602: Speculation, Lacks personal knowledge (145:11-20) 401, 402, 403: Testimony consists of non-responsive narrative that is confusing, misleading, and prejudicial; Hearsay—Babich MIL #1: Efforts not in place by FY14 (144:14-145:5; 145:11-146:8)			
147:16-153:22	106: Incomplete (designate 146:25-147:4 and 153:23-154:1 per FRE 106) 601, 602: Lacks personal knowledge; Speculation Nonresponsive (147:16-148:17; 148:21-149:2; 149:8-14; 149:23-150:2; 150:18-151:13; 151:25-152:6; 152:20-152:22) Narrative (150:18-151:13) MIL #1: Efforts not in place by FY14 (147:16-148:17, 147:21-150:2-153:22) Hearsay—Babich MIL #3	146:25-147:4 153:23-154:1		

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Defendants' Designations	Plaintiff Class's Objections	Plaintiff Class's Counter Designations ¹²	Defendants Objections to Plaintiff Class's Counter Designations	Plaintiff Class's Responses to Defendants Objections
180:19-181:2	106: Incomplete (designate 179:2-180:7, 180:10-18, and 181:2-5 per FRE 106) 401, 402, 403: Testimony consists of non-responsive narrative that is confusing, misleading, and prejudicial 601, 602: Speculation Hearsay—Babich MIL #3	179:2-180:7 180:10-18		
193:5-13	106: Incomplete (designate 193:19-194:2, 194:7-195:4, 195:7-195:24, 196:5, 196:7-196:19, 196:22-25, 195:5-25, & 198:4-10 per FRE 106) Hearsay—Babich MIL #3	193:19-194:2 194:7-195:4 195:7-195:24 196:5 196:7-196:19 196:22-25 195:5-25 198:4-10		
202:22-203:22	106: Incomplete (designate 200:19-202:1, 202:6-19, and 202:21 per FRE 106) Nonresponsive 601, 602: Speculation Hearsay—Babich	200:19-202:1 202:6-19 202:21		